

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

31ST JULY, 1989

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixth Meeting of the First Session of the Sixth House of Assembly held in the Assembly Chamber on Monday 31st July 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 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 J H Bautista - Acting 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.

RULING BY MR SPEAKER

MR SPEAKER:

Before we start on the Agenda I would like to surprise Members with something that I think they will welcome. I will read it because it is a formal ruling.

"Honourable Members, I know from personal experience of past years that summer heat in this Chamber tends to exacerbate differences and this is not conducive to calm and cool counsel. In the circumstances I consider that in the interest of rational debating it is wise to relieve Members of the irritations caused by sweltering heat by allowing those wishing to remove their jackets to do so when previously authorized by the Speaker."

I am not of the opinion that this will undermine the dignity of the House. Indeed, as a gesture of respect for this institution that enshrines the sovereignty of the people of Gibraltar, Members are required as hitherto to enter and leave the Chamber fully dressed at the commencement and recess or adjournment respectively. Jackets will only be removed inside the Chamber when so permitted under the conditions already stated.

As a result of this practical step that I am well aware Honourable Members welcome, I hope the House will find it possible to take another practical step and resolve, sooner rather than later to authorise, in principle, the indexation of the Hansards now many years overdue.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon J H Bautista, Acting Financial Development Secretary, took the Oath of Allegiance.

MR SPEAKER:

I think all Members will join me in welcoming the Hon Joseph Henry Bautista to the House and I am sure he will have all the patience and erudition that is so much required.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I thank the House for your warm words of welcome.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 29 March, 1989, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Hotel Occupancy Survey, 1988

Ordered to lie.

The Hon the Minister for Education, Culture and Youth Affairs laid on the table the following document:

The Accounts for the John Mackintosh Hall for the year ended 31st March, 1989.

Ordered to lie.

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1989/90).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.2 of 1989/90).
- (3) Statement of Supplementary Estimates No.1 of 1989/90.
- (4) The Accounts of the Government of Gibraltar for the year ended 31st March, 1988, together with the Report of the Principal Auditor thereon.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.40 pm.

Answers to Questions continued.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, since the motion has been circulated to all Members of the House and is rather lengthy, may I have your leave to dispense with the need to read it out?

MR SPEAKER:

You have the leave of the House not to have to read it out.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. The motion seeks to obtain the approval of the House for the amendment of Schedule 2 of the Licensing and Fees Ordinance in respect of three categories of the charges of fees contained therein. The first of the charges affected are office fees which were last revised in 1984 and to which paragraph 2 of the motion refers. The second category of fees being increased are the passport fees which appear under item 5 of the Schedule for the issue of passports, visas and such like services, paragraph 3 of the motion refers. Here again, these have not been reviewed since 1984. It is the practice to follow the UK's lead in fixing their level and as the UK increased its fees with effect from April this year, it is quite appropriate that we should follow suit. The new fees will, by and large, be the same as in the United Kingdom. The only variance of significance is the fee for urgent service, item (h) in the motion, for which there is no United Kingdom counterpart and which will now have to be paid by applicants requesting priority except in the circumstances mentioned in the Note which appears after the description of the Item. This fee has only been charged for attendance outside office hours, Item 5(j) in the current Schedule but it has been found that requests for priority made within office hours often disrupt office routine and more often than not result in the Government incurring overtime expenditure. The third category of fees being changed are the Customs overtime fees found in Part 2 of Item 8 in the Schedule. These fees are normally revised in line with annual pay increases as on this occasion and are designed to recoup from the trade the cost of the services provided by Customs Officers after normal working hours. Mr Speaker, I formally move in the terms of the dissolution which has been circulated to Hon Members.

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

HON A J CANEPA:

We will be supporting the motion.

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

BILLS
FIRST AND SECOND READINGS

THE INCOME TAX (AMENDMENT) (NO.2) ORDINANCE, 1989

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance be 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. Mr Speaker, the Bill, which I am sorry to say has taken us longer to get here than I had hoped, because in fact, we announced our intention to move in this direction in April 1988, and again in this year's Budget I intimated that we would be moving quite quickly to introduce this kind of legislation shortly after the Budget Session. Had we had it ready for that House, we would of course have done it then, as I have mentioned already in the context of the Investment Fund. Last year we brought an amendment to the Income Tax Ordinance which provided for the sale of shares by the Gibraltar Investment Fund to be a tax deductible allowance. Because in the amending legislation it was limited to it being done in the current Financial Year we now find that effectively we have lost the last year without being able to make use of this proviso. One of the changes that we are introducing in the legislation before the House is the ability to provide for allowances to be offset against income other than in the year in which they take place, but there is still the caveat that that flexibility cannot be used to actually raise taxation retrospectively. So what we can do is to lower taxation retrospectively if we choose to, but we cannot raise taxation. This I imagine will not find any opposition from anybody, as long as it is actually making people pay less tax rather than more, I would imagine that people do not mind how far back we go. The Ordinance effectively allows us to be able to move in a situation where, as I explained in the 1988 Budget, and I will remind Members that I said that there will be an exercise carried out which I had recommended from the Opposition benches for many years to the previous administration, and that is examining how taxes are collected, so that charges are introduced in a way which relate in a consumer's point of view and the intake of the service. I was looking at a situation where we were providing a fiscal system which did more than just raise money. A fiscal system which obviously has the effect of raising money for the Government, but has primarily a use as a technical tool in economic management. One of the areas which I remember for many years in the Opposition saying to the Government, with very little success, I must say, and was fundamental to sound use of fiscal policy, was that one should examine the revenue yield of certain taxes, because at the end of the day, if it is costing you more to collect than what it is producing why are you doing it? And therefore in looking, at for example, the Qualifying Companies Ordinance, we discovered that the Qualifying Companies Ordinance which has been in service for a very long time has hardly been used at all. I think there were two or three companies making use of it. We also discovered,

for reasons that nobody seems to be able to explain to us and probably lost in the midst of time, that we discourage people from remitting their money into Gibraltar by taxing them at 18% if they send the money here and at 2% if they do not. Well that is hardly consistent with what we are trying to do now, which is to create an off-shore banking centre, where we want everybody in the world to bring their money here, and yet we tax the people who have qualifying companies if they keep their money in Gibraltar and we do not tax them if they keep it in Jersey or Guernsey. This seems a strange way of encouraging that, but of course, it is because those Rules go back in time to somebody sitting down and drawing up the Rules without any thought of whether the Rules under one area are in fact negating what you are trying to do under Rules in another area. So in looking at the situation, in looking at the attempt that was made by the previous Government a number of years ago to introduce a concept of residence for individuals who would be able to pay a reduced level of taxation, I remember when the Bill was brought to the House we in fact opposed it. Primarily because it required a residential property to be owned and occupied thirty days a year and we felt that the benefits of attracting wealthy non-Gibraltarians to register under these provisions and pay some tax in Gibraltar was going to be negated if one of the qualifying conditions was that they had to have an apartment in Gibraltar which they would use one month a year and keep empty for the other eleven months. Because that would mean that in terms of the local property market, the local Gibraltarian might find himself even more pushed out of the market by the competition from outsiders to whom the purchase of the property was not a way of buying accommodation but a way of paying less tax. So if a person had to look at the property and say to himself, "well right, I will pay £80,000 for a flat because that is the way of paying less income tax", for him the advantage of the value of the property was irrelevant. The advantage was the offsetting tax saving, whereas the local person who needed somewhere to live was not in that situation and it seemed to us that we were then looking at the situation where the property condition negated the effect. But in principle, the idea of creating a category of taxpayers that did not exist and where it would bring new revenue into the Government seemed to us a sensible thing. In fact the law, I believe, went through First and Second Reading and then lapsed and was never taken to Committee Stage. We were approached on this shortly after the election and we committed ourselves to re-introducing similar provisions in our law but without the property qualification and in fact we have tried to do it in a way which meets the requirements of the people who have been making the representations to us. There will be Rules to do this, so effectively what we are doing in this legislation is creating the possibility of a qualifying individual, as well as a qualifying company,

so rather than create a new category of taxpayer we thought well let us re-define the category that exists of a qualifying company and let us make it something that can be applied to either a corporate entity or a physical person and then we draw up Rules saying what people need to do to qualify and those Rules will be done in such a way that they are, if you like, tailor-made. What we are doing to the market that this is intended for and which is primarily the Scandinavian market where we are sure there is a great deal of interest in what we are doing and we have certainly made this known through the Financial press that we engaged in this kind of exercise. Another use that we are looking at in terms of the qualifying company which is one of the important areas that we want to implement as soon as the Bill is passed, because as I say, we were committed to do this for the last Financial Year and we missed the June deadline. This is in relation to attracting companies that will use Gibraltar as an export base. We have already had a number of companies approaching us, I do not think that we should go into the details of the product that they might or might not manufacture, otherwise I can see myself facing questions about ball-point pens, bicycles, building components and every other product that everybody else talks to me about. So I think, I will leave the products out in the future from the bits of information that I provide Members with. But there is one particular business enterprise, which is manufacturing already in Spain, the UK and in Canada, that is exporting to a number of countries and has been looking at the kind of facilities that we have in the commercial Dockyard, and so far seem very keen to come in, all that we have got at the moment is interest, but clearly the taxation of the profits of such an enterprise was an important factor. What we are doing there is that we are making provision which will enable a company engaged exclusively in exporting to be licensed as a qualifying company engaged in exports and there that company will pay a reduced rate of taxation which can be anything between 2% to 18%. What the law says is that the tax rate on corporation tax of qualifying companies will be no less than 2% or more than 18%. The reason why we have that flexibility is because in fact we have been told by some professional advisers that they have clients who will not come unless they pay 18%. Because there is a proviso for certain types of businesses called "Controlled Foreign Corporations" where if the Controlled Foreign Corporation pays 50% or more of the tax of the home country, then it does not have to pay the tax in the home country. So therefore, for example, if in a particular country this company would pay 35%, if we charge 17½% here or 18% to be on the safe side, they do not have to pay the 35%. But if we charge 17% and because 17% is less than 50% of 35% they have to pay the 17% here and the 35% on top when they remit their profits back to their home corporation, which is the parent company. Because we have been advised by people who have customers, and

this is a strange situation to be approached as a Government and to be told that we need to have our taxes higher rather than lower and it is certainly the first time I have come across this. We are therefore drafting the law in such a way, that in fact if somebody comes along with a potential business, we can actually produce a competitive rate and build it in. This is the kind of flexibility that will apply and it is a flexibility that we also intend to ensure is available to the local business community as well. We do not see why outsiders should be able to come and put a factory here to export and do so and make a profit and pay a low rate of tax because it is money that they are bringing into the economy but we do not allow a Gibraltarian to do it. Obviously we would need to be sure that this is done in such a way that it is not possible to divert business which is in the internal economy and show it as business in the external economy and therefore produce a revenue loss. But I think, if this is taken in the spirit in which the Government is doing it and I would imagine that a responsible businessman would not want in any case to abuse the position that we are giving him. This is in fact a major departure, because in the past, virtually all the drafting of the legislation giving privileged tax treatment to outsiders has been specifically drafted to make sure that the Gibraltarians cannot even be shareholders in those businesses, never mind directors or managers. We believe that that does not make sense. The other area, Mr Speaker, is the area which will allow us at different points in time to introduce different expenses which can be offset against income, on terms that will be spelt out and again as I have mentioned in my introductory remarks, this is intended to produce a situation where the expenditure that we want to encourage will be given a fiscal incentive. The clearest one is the question of Home-Ownership, where I mentioned in the Budget that we would be expecting to announce this as soon as the legislation was ready. It is our intention immediately after we pass the law to make the necessary Rules laying down what will be the criteria for people to obtain tax relief for Home-Ownership. This will in fact be replacing the existing provisions in the Ordinance on the £2,000 and which we think is, in fact, drafted in a way where a lot of people have not been able to take advantage of it. Fundamentally what we propose to do is a very simple thing, any one in Gibraltar buying themselves a home for owner-occupation will be able to claim a £10,000 deduction from their income and will be able to do it once and they will be able to choose how they do it and will be able to choose at what stage, so that it will apply to people who are already currently buying their homes. It will not apply to the people who buy for the first time. It is something that you can claim once but it does not have to be your first home because as far as we are concerned, suppose you have just sold one house and bought yourself another, then you would feel "well it is not my fault that the provision was not there before". What you cannot do is buy ten homes and

claim it ten times. But it does not matter how many homes you have owned before, you can claim it once and then we feel everybody is getting equal and fair treatment. It also means that the individual taxpayer will be able to match the relief to when he needs it most. If he wants to, when he puts his deposit down, if he wants to be able to claim against that deposit he can do it then if that is when he needs it because at the end of the day once he has claimed it he cannot claim it a second time, so we have got a safeguard in the system that will not be abused. Obviously the detailed controls that need to be introduced will be included in the Regulations. What the legislation is doing at the moment is giving us the power to introduce this kind of proviso into our law and what will happen will be that simultaneous with this coming in, the existing proviso in the Principle Ordinance will be eliminated and substituted by this one. This is why in the amending legislation that we are bringing to the House we provide that different sections can in fact be removed from the main Ordinance when the new proviso comes in and which will be brought in at different points in time. We are looking, in fact, at the entire tax system on the basis of examining which are the areas of expenses that one could argue ought to be reduced for people through the introduction of tax relief. We are taking if you like a very radical approach to the whole question of taxation. Looking at it as I have said as an instrument of Government policy to achieve the encouragement of the things that we want to achieve which we think will generate greater economic growth and greater prosperity for Gibraltar and we are prepared to take a look at how we develop the tax system with no pre-conceived ideas. That is to say, in looking at how we introduce new provisos, in looking at how we amend the law, what we are looking for is a Tax Ordinance that produces a great deal of flexibility and in the main the application of that flexibility will be in response to approaches that we get from businessmen or from professional representatives of investors who come to us and say "people would come to Gibraltar if our law allowed one to do 'x' or if our tax rate for such an activity were 'y'". As at the moment what we have is a situation where we are not collecting anything. In a way, and if I can remind Members of what we did very early last year, in May, on the Stamp Duties, we had a situation where the Stamp Duty on International Bonds was 0.13% and nobody was paying the Stamp Duty of 0.13% because it was too expensive. When we had this pointed out to us, we cut the Stamp Duty by making it a maximum of £5,000 and therefore we are now getting £5,000 that otherwise we would not have got. So the sensible thing to do with fiscal policy is, in the external market, we look at our fiscal system as a tool to make us more competitive in order that people would rather do business from Gibraltar than from somewhere else. From the internal market, we look at our fiscal system so that it raises revenue from certain activities and it encourages other activities by reducing the fiscal burden on the activities

we want to encourage and essentially that is what we hope to be able to do with this Bill. As I have said Mr Speaker, I had hoped to have brought it earlier in the life of the Government but as soon as it is enacted we propose to act very quickly in giving effect to the enabling provisions of the law and introducing specific things which we have been discussing with a number of interested parties. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, I am going to speak in very broad political terms on this Bill and then I will be followed by others of my colleagues who will be dealing with some of the more specific provisions. Let me say, at the outset, that we in the Opposition will be voting against this Bill entirely and that we are doing so because we have got great serious fundamental objections to the main thing that this Bill, in our view, is seeking to do or which if it is not so much seeking to do, it is going to achieve, and that is that it is going to take away from this House and from us Members of the Opposition, in particular, the opportunity to debate, to comment and to put our point of view across to the Government on matters to do with Income Tax and in particular with personal Income Tax at the time when those measures are to be introduced. The Government is obtaining powers in this legislation to proceed by Regulation. In other words to make changes in the levels, in the rates of Income Tax without having to bring a Bill to the House, but to do so by Regulation, by Gazetting Rules and Regulations and then tabling those Rules and Regulations in the House subsequently. The Opposition would then and only at that stage have a chance to debate the matter by introducing a Resolution in the House, a Resolution if the Opposition is not in favour of the measures taken, seeking to annul the Regulations. Here you have Mr Speaker, a Government that for years has been speaking about open Government and which is in fact moving more and more, and has done so in the past by a number of measures that have been brought to the House in the last sixteen months, moving closer and closer to Government by decree. Government by decree without having to consult the House. Government by decree without introducing legislation to make tax changes in this House. What is more fundamental to the principle of democracy than that you should have no taxation without representation and the fact of the matter is that at least 30% of the electorate whom we represent, not to mention the other 10%-12% who voted at the last General Election and are not represented here. Those people that we represent do not have an opportunity, through their elected representatives, of putting across their point

of view on legislation as and when it is introduced in this House. The House of Assembly is effectively being downgraded. This is yet another example of the fact that in Gibraltar today people enjoy and have less freedom than what they had before the last General Election. Here we have this style of Government propounded by the Chief Minister in keeping with an authoritarian dictatorial approach and it has taken fifteen months for the Bill to be brought to the House. It is nonsense to say that the sole aim and purpose is flexibility. If you look back over the years, Mr Speaker, there have been numerous occasions in the course of any legislative year when a number of Bills have been brought to this House amending the Income Tax Ordinance. It is the easiest thing in the world in a legislature such as ours which meets as and when it needs to meet. Which meets with very little requirement to give notice, which when legislation goes to Committee is not held up inordinately, unlike the House of Commons where Committees sit on legislation for ages, that does not happen here. It is possible in this House to get legislation through very very quickly. This is not a measure for obtaining more flexibility, but instead not giving the Opposition the opportunity that it is entitled to debate the matter. It was said at the time of the recent "secret tax code fiasco" that the Government was going to get flexibility by bringing legislation to this House at this meeting to deal precisely with that situation. That is nonsense, Mr Speaker, that was a deliberate attempt to mislead those who were affected. The fact of the matter is that if the Government changes the legislation in Gibraltar, so that you divert the amount that you are paying under the Social Insurance Ordinance to the Group Practice Medical Scheme, then people are not entitled to get tax relief and therefore, if the amount involved is £1 a week or £1 something, that can be £50, £60 or £80 a year which can adversely affect the code, and therefore the Commissioner of Income Tax and the Income Tax Office had to act in accordance with the political decisions and the legislation that the Government had previously passed in this House. Then what did they do, they went and they blamed the administration and it required the Gibraltar and General Clerical Association to make clear in a statement that the Income Tax Office was acting as a direct result of political decisions taken. Just as if today they were to introduce a Bill increasing Social Insurance contributions by £5 a week, then the Income Tax Office in issuing new tax codes had to give people £260 a year of additional tax relief and therefore people would be coded beneficially to them, in a manner beneficially to them, and would pay less tax. But this is the response to the situation that arose and that is nonsense, Mr Speaker. The Government took a decision last October or November to divert from the Social Insurance to the Group Practice Medical Scheme and perhaps it did not dawn on them at the time that there was going to be a negative response from the public until the tax codes

were issued. The measure that is being brought to the House today is something which you do not have in the United Kingdom. In the United Kingdom changes in Income Tax and in particular in personal taxation are an intrinsic important fundamental part of the Budget and the Chancellor announces those when he introduces the Budget. That is then followed by the issuing of many more complicated Tables of codes than what we have in Gibraltar. Again in Gibraltar, the system of issuing Tables because it is not cumulative is very straightforward. There are not that many Tables to talk about, so what is the need for that. This is just going to the fundamental root of democracy and that is why we cannot just go along with that. I speak in the way that I do, Mr Speaker, because this is not an isolated instance. This is the third or the fourth example that we have had in one legislative year which is ending now, shall we say, of powers being taken away from this House, an opportunity being denied to Members of the Opposition to put their point of view across and it is indicative of everything that happens in the House. It is indicative of everything that happens at Question Time and the attitude of Members opposite. So for this serious fundamental reason, not because we do not think, on the contrary we have been campaigning for people to have their tax cut, because we think that the Government's financial position is one which enables, or at least they could be adopting policies, that would allow for that. Not that we do not support that people should have their tax cut, but not in this way. Nor do we think that it is conducive to good Government or to good parliamentary practice that we should be expected, at a meeting of the House subsequent to that morning when we wake up, we come here to the House of Assembly and we are handed a new Gazette and in that new Gazette there are tax changes gazetted. At that meeting immediately after the publication of that Gazette we are expected to bring a motion to the House if we want to debate, if we want to discuss the measures that the Government has taken on taxation. It goes to the root of the matter. This is the reason why a civil war of independence was fought in the United States and that is why we are opposing this regardless of the merits of any other of the clauses. We will be voting against at all stages, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, the general attitude of the Opposition to this Bill, I think, has been made quite clear by the Leader of the Opposition and as he has said it is rather a pity because areas that the Bill seeks to address are areas on which, simply on their own specific merits, we will have no argument with at all and in fact we support. And the general line Sir, that I wish to take in going through the Bill and expressing some views on each section is that frankly the remedy that has been sought of taking from this House the legislative role of changing the Tax Ordinance is too harsh and unnecessary for the cure that

we want, ie the greater flexibility that is required. In a system where you have, in areas like this, a willing Opposition which would enable the Government to easily pass legislative measures to give Gibraltar the competitive edge that is required without the need for these draconian measures, without the need for usurping the functions of the House in the way the Bill proposes to do. So the Chief Minister himself, in explaining how there was an amendment to the Stamp Duties Ordinance, has indicated how it can be done, how in Gibraltar where there is quick and easy access to politicians and when there is a willing ear, Rules can be changed and they can be changed much more expediently than in many other jurisdictions of our size. In fact I am convinced that with the establishment of a proper procedure, which may be the Financial Services Commission, and which could be responsible by having somebody looking at Financial Services and the taxation in the Finance Centre. That would very very much speed up the changes that Gibraltar, which has to be at the forefront of, to make sure that we are competitive. Mr Speaker, it is a pity because a lot of what is in the Bill, we could go along with but the method is so fundamentally flawed in our view or unnecessary at least, that it forces us to vote negatively on the whole proposed legislation. Sir I think it is important to say that one aspect on which, we are fundamentally opposed on, is the question of disregarding completely this House from the decisions as to what bands of tax and what rates of tax are to be charged in Gibraltar. What the Bill proposes to do in its main section Sir, is to take away from this House that very power to decide what the different rates of tax are, what allowances are etc. That is the fundamental usurpation that we feel is wrong. At the very very least Sir, one suggestion that we put forward, although fundamental in a sense that we would have to consider whether our fears were cured, is that if flexibility is required and if the Government were to say "we need the House to be out of this because the House is too much of a hassle and the House is too much of a problem, the House takes too long", and assuming there was any legitimacy to that argument, because people want laws changed in a week and not in a month, then clearly in the area of non-residence that might be a more legitimate argument than in the area of residence and I am suggesting, very much as a suggestion, that perhaps the flexibility which the Government is seeking and which is in the area of non-residence, ie the area of people not being physically here and tax resident in the normal sense of the word then perhaps there we would be a little bit more amenable to looking at a very draconian sort of change in the system but which might be justifiable in those circumstances. I think Sir, in all humility that would give the Government the quick flexibility it needs, at least on those issues, and then they would come to this House, as a normal Legislature does in any other country, to debate taxation, on-shore taxation, for residents of Gibraltar. It is a pity, Sir, because in things like for example, the

Qualifying Companies, we do not argue at all, it is also a pity as well because in the case of qualifying individuals, where the Government would be seeking to attract wealthy individuals, to establish themselves in Gibraltar in certain respects again we would not oppose that although I will say that we would like to see what the Prescribed Rules are going to be. Because it is a bit of a blank cheque at present. But we are suggesting, Sir, and I am not going to take longer in making suggestions than I have already, that the Government could do what it sets out to do by introducing two systems, one for non-residents which would be subject to regulations and which this House would have the ability to debate after the regulations have been enacted. There could even be if Government is prepared to do so a measure of consultation with the Opposition before these Rules are tabled. There would be no problem with regard to residents we would wish to preserve the present procedures where this House would have a full competence for the Regulation and where there could be full public debate before things were altered and be answerable to the people as people expect us to be.

HON CHIEF MINISTER:

I am grateful to the Hon Member that has just spoken Mr Speaker, because I think that he has at least recognised that the intention is a good one but it is the methodology that is not acceptable. All I can say to this is fine, they have got a different view of how one should do things and how one should govern and they have the right to hold that view. We are doing what we announced immediately we took office we wished to do, the need to do it and if anything, this is supported by the time that it has taken us to do it Mr Speaker. The fact that we announced it in April 1988 and again in May 1989, when I said that I hoped that this would be ready by June and here we are at the end of July, and has still not been passed shows that quite apart from anything else, one of the things that we find in bringing legislation to the House and, I do not know how the system operated before when they were in Government, is that in fact there is a situation where the time-scale between the original policy-decision to do something and the actual draft ready to go to the printers is a very long one. There are also a number of technical matters that departments seem to want to do or the Foreign Office wants done and which somehow find their way to the top of the queue and whilst you are saying that this is an urgent piece of legislation you get told "well there is all these and it has to wait because we are overloaded". The next thing is that you suddenly find yourself with a piece of legislation about which you know nothing about, nor does anybody else know why it is there. There is apparently somebody, not elected, pushing for it, and the office responsible have an enormous backlog of legislation which I wish we could implement by Rules and Regulations, Mr Speaker. When I went over

to see Mrs Lynda Chalker this time, and I think I mentioned it, in fact to the Leader of the Opposition when we were together at the CPA Conference. I was told that there were sixty-two Directives, that were urgent, and which is a very small part of the Directives that we should have implemented and have not in fact implemented. These Directives go back to 1974 in some cases, and we joined in 1973. There are Directives which have now been overtaken by other Directives and we have found drafts of legislation where for some peculiar reason in the system, before we got into office, such as the Protection of Insolvency Ordinance, 1983, with 1983 crossed and 1984 inserted and that crossed and 1985 inserted and so on. Now as far as we are concerned, Mr Speaker, we are conscious that the speed with which we want to move and the things we want to do in Gibraltar will not get done with the machinery that we have in the Public Administration or the machinery that we have to prepare Legislation and the machinery that we have to draft Legislation. But what the Honourable Member seems to have forgotten completely in his history lesson about the American War of Independence is that that was about increasing taxation. I do not imagine the United States would have rebelled against George III if he had actually reduced their taxes. They were complaining about having their taxes increased without being consulted. I think it was about the Stamp Duty on tea.

HON G MASCARENHAS:

If the Honourable Member will give way. It was the theme of no taxation, where no taxation without representation because Parliament in London was telling them where the taxes had to be levied. Not about increasing them, Mr Speaker.

HON CHIEF MINISTER:

That is right, Mr Speaker, it was because Parliament in London was telling them "we want to have a tax on tea", and they were saying why should the people in London decide the type of taxes that we pay in America or in Gibraltar or in anywhere else. But this is not about increasing taxation. It is not about putting taxes on people without giving the people the right to express their disagreement, it is about removing them. Because the law specifically says that it cannot be done in conflict with the provisions of the Ordinance, that says that you cannot introduce taxation without the matter receiving the approval of the House of Assembly. So in fact this does not allow us to introduce taxation without the House's approval. It allows us to remove taxation without the House's approval. Now the only thing that the Honourable Member can complain about is that if we removed tomorrow all income tax, I have no doubt that the AACR would stand up and say "why don't we have negative income tax, why is not the Government doing more?". Now I admit that

I am depriving them of that opportunity, that I accept but no doubt they will find some other thing to complain about, they are very ingenious on this kind of thing, Mr Speaker.

HON P C MONTEGRIFFO:

I do not know that the Chief Minister has understood it, but the terms of the Bill appear to me Mr Speaker, because the Government has complete authority under the terms of the Bill to increase tax to whatever level it wants, the only thing is that it cannot do this retrospectively. But if tomorrow the Government issued a notice under this Bill saying "from now on the Standard Rate of Tax is 99 pence in the fl" that would be law if this Bill is passed. It is of course about that, the Government's intention may not be to raise tax, we do not know that, we cannot read the minds of Members opposite as I was reminded today. But the Bill clearly empowers the Government to do what it wants with tax, subject only to reporting to this House subsequently. I think that is correct, is it not?

HON A J CANEPA:

Will the Chief Minister give way on another matter, Mr Speaker, that he has made. He has been telling the House about all the difficulties of getting legislation drafted and brought to the House. We all know of this and about the fact that all the departments have their own priorities and so forth but let me tell the Chief Minister one thing that we used to complain of and that is that when legislation for instance or any Council of Ministers Paper was doing the rounds in Government departments for ages and you could check from the file, how many departments it had been to and for how long. Then the rush suddenly started when they wanted to bring it to Council of Ministers and then Ministers, the people who needed time and the people that mattered, were given very little time in which to consider the matter and decide upon. Now we are doing something similar with this Bill, with the rights that it is going to remove. Because he has difficulties with the Law Officers, because he has difficulties with the Departments, because he has got difficulties with the EEC and their Directives, the Chief Minister says let us devise a way of trying to get legislation through more quickly. So what does he do, he says well do not take it to the House of Assembly, we Gazette it and that is the end of the matter. So we the people who are at the receiving end, at the end of it all, the Members of the House, of course, as opposed to the Ministers opposite who will have seen the Rules, the Regulations in draft in Council of Ministers before they are Gazetted and they have got a majority of eight, they are the ones that matter. That crowd in the Opposition benches, well they can be overlooked. That is the reality, Mr Speaker.

HON CHIEF MINISTER:

The reality of it is that since I joined this House in 1972, I do not recall the Government ever changing tax laws on the initiative of the Opposition and if I remember correctly, on one occasion when I tried to move an amendment, I was told that in fact the Constitution prohibited Members of the Opposition from moving amendments to legislation which would mean an increase in taxation or in fact be a burden on the public purse, a reduction of taxation, because it would increase the deficit.

HON A J CANEPA:

Mr Speaker, I remember the Honourable Member moving amendments to the rates of income tax here in this House.

HON CHIEF MINISTER:

Which were not accepted, Mr Speaker, and which in fact the Chair ruled I was not able to do and what used to happen sometimes and I admit it, was that when I had a situation for a number of years as the Honourable Member will recall, when I was on my own, I used to occasionally negotiate over a biscuit and a cup of coffee an amendment, but it was never moved in the Chamber and from that side. But I admit that there were occasions when I persuaded the AACR to do something which perhaps the people who were sitting on the same side as I was found difficult to accept, I grant him that. I think the fundamental objections that the Honourable Member has put are a legitimate political view to take. We have given this matter a lot of thought and frankly we have been trying to move in this direction for the best part of a year now with very little success. I think he has to accept that we are going to go through with this and I think we will be able to satisfy him by the way that we apply the law that his worst fears are in fact unfounded. He will not find that this is what he thinks it is. It is not an attempt to rule like George III.

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 J H Bautista

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 E Thistlethwaite

The Bill was read a second time.

HON CHIEF MINISTER:

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

This was agreed to.

THE LANDLORD AND TENANT (AMENDMENT) ORDINANCE, 1989

HON J L BALDACHINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Landlord and Tenant Ordinance and repeal the Labour from Abroad (Accommodation) 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 L BALDACHINO:

Sir, I have the honour to move that the Bill be now read a second time. Sir, there are a few amendments to the Landlord and Tenant Ordinance and also to repeal the Labour from Abroad (Accommodation) Ordinance and to include the accommodation that now comes under the Landlord and Tenant Ordinance. Sometime back Mr Speaker, when the AACR administration were in power they did bring in a Bill to include the Labour from Abroad Accommodation into the Landlord and Tenant Ordinance and at that time they changed the law so that accommodation that used to house more than five persons could then be included from the Labour from Abroad Accommodation Ordinance to the Landlord and Tenant Ordinance. This did not materialise because it did not go beyond the Second Reading Stage. Basically, Mr Speaker, arising out of events that have been happening in Gibraltar lately where we have had persons which come under the provisions of the Labour from Abroad Accommodation

Ordinance evicted some of these persons had been living in that accommodation for over twenty years. After representations from the Moroccan Association, the Government has considered it necessary that certain protection should be given to this class of workers. Mr Speaker, all that we are doing basically is that premises which are now included under the Labour from Abroad Ordinance will now be included and have the protection of part of the Landlord and Tenant Ordinance. That is one of the amendments, Mr Speaker. The other amendment is Section 69 of the Landlord and Tenant Ordinance and again after representations from some of the commercial tenants that if they change their line of businesses or if they sell the business to somebody else the landlord can now charge a rent of up to two years rent as a premium. Some of these persons who have made representations to us think this is abusive and all that we are doing here, Mr Speaker, is giving them the right to apply to the courts and for the courts to decide if the rent or the premium that will be charged by the landlord is abusive or not. The other amendment, Mr Speaker, is that we are deleting the Statutory provision for rent relief. This is because of the EEC commitment and about which Honourable Members opposite are, I think, quite clear. Nevertheless, Mr Speaker, the provision of rent relief will be paid just as it is being paid out now but will be paid out of the Social Assistance Fund instead of from the Consolidated Fund as it is now because it is a Statutory Provision. The amendment that will most probably be more controversial, Mr Speaker, is the repealing of Section 22 of the Ordinance and replacing it with the new provision. This amendment has been to the House of Assembly before, in fact it was an amendment that I proposed from that side of the House and which the AACR administration, at the time accepted and was unanimously passed in this House. However two months later they came back and repealed it without giving an explanation. My fears at the time and the reason why I proposed the amendments originally, Mr Speaker, were because the Ordinance as it stands at the moment gives the landlord if he carries out certain alterations to the property powers to apply for the rent to be de-controlled. What has been happening is that the Rent Tribunal in some cases has considered it necessary not to grant the decontrolling of the rent but in other instances the court has simply, Mr Speaker, for carrying out alterations, minor alterations to their properties, allowed them to be de-controlled. What happens, Mr Speaker, is that once the property has become de-controlled certain tenants have been priced out of that accommodation that they had originally rented as a controlled premises. In some instances what has happened is that the landlord has carried out eviction orders once the property was no longer a controlled property and a tenant who had enjoyed, prior to these alterations being carried out, a certain amount of protection has found that he has lost this protection. Under our amendment Mr Speaker, if the landlord carries out any alterations then whatever money is expended by them will be taken into consideration by

the Rent Tribunal and the rent can then be increased proportionately to whatever amount they have expended but in no way will the property become de-controlled. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, as the Honourable Minister has said, this is a bit of a hybrid Bill because it covers four quite distinct areas and I, like the Minister, will deal with them separately. Let me say from the outset that, in principle, we are a little bit concerned about the way this Bill has been presented. The GSLP had a commitment to review the Landlord and Tenant Ordinance and we would have preferred to have seen the full contents of the review presented in the Bill in order to have been able to study the GSLP's policy and the GSLP's intentions as a whole instead of a piecemeal approach, as they seem to have done on this occasion. In taking the four items separately let me take first the one of the repealing of Rent Relief and say straightaway that I certainly, and from the looks on the faces of other members on this side of the House, they have not understood the Minister's explanation about the EEC commitment and the necessity to do this. Nor do I see a watertight commitment to maintain the payment of Rent Relief out of the Social Assistance Fund. If we can be convinced, Mr Speaker, by the Minister during the course of the debate on this Bill that this is indeed the case then our attitude towards this particular clause maybe modified. But as things stand at the moment we do not feel we can support it. With regard of the Labour from Abroad Accommodation Ordinance, again let me say straightaway that we are obviously in sympathy in respect of cases of Moroccan workers, who as the Minister referred to, who are evicted after a long period of residence. But again we have reservations whether a complete wiping out of the Ordinance, as it is being done, is the best way to achieve this. For example whether the abolition of the rules in a fell stroke will in the long term protect future workers that do come from abroad and take up residence. Similarly we are concerned that by making the change in the way that it has been made and making persons who are in the premises at this moment protected tenants, as it were automatically, without, I must say, any distinction on length of time that they have been in Gibraltar, eg you could have someone who has been here for a week and someone who has been here for twenty years, the same blanket provision will apply making them protected tenants and extending the complete protection, not only to the tenants, but also to the immediate family. We wonder whether the

Government has made an in depth study of the implications of such a policy and whether they have projections into the future of what effect it will have on the housing situation in Gibraltar in the long term, and whether in fact they will not be uncovering the tip of a mini iceberg in parallel to the Spanish pensions situation. Finally, on the question of the Provision of Statutory Rent and the payment of Landlord's Premiums, again let me say, that, in principle, we are not necessarily opposed to the provisions that the Minister is bringing forward, indeed we are quite sympathetic to the tenant's position, but because of the reasons that I outlined at the beginning of my intervention we feel that we may have to abstain on this part of the Bill because we feel that it is invidious to bring it as an amendment on its own, in isolation, from the rest of the Landlord and Tenant Ordinance, which is quite a thick document in itself. As, I say we would support it if it came as a complete revision of the Ordinance but not in isolation.

HON A J CANEPA:

I would just like to devote some time to the question of Rent Relief and explain to the Honourable Minister what my understanding is as to how rent relief operates, and thereby he might understand why I have some objection fundamentally to the repeal of the Statutory Rent Relief. We have not heard from the Government any statement of policy that they intend to do away with rent relief altogether. I take it therefore that rent relief is going to continue and in particular for Government tenants because in any case, for Government tenants, it has always been an administrative scheme. Provision for payment of rent relief is paid by the voting of funds as a specific item of expenditure. This is where I am puzzled as to the EEC dimension. I do not see how any EEC citizen living outside Gibraltar but in the EEC, can make a claim for rent relief out of public funds voted by this House on behalf of the people of Gibraltar. I do not see how that can happen. Unless that were to be the case I do not see the need to repeal the Statutory Rent Relief. What now happens is, that under this Ordinance, we enable persons living in private sector accommodation, let us take the case of a family living in a flat in the private sector, a lifetime, 50 years and the married couple or a widow now has to pay a rent of let us say £15 per week and her income is such that under the formula for rent relief she is entitled to an element of rent relief. Let us say that her income is such that she is only deemed to be able to pay £5 per week. She then makes an application to the Housing Department and her income is assessed and on the basis of that, if the formula works in the way that I have said, the Government would reimburse the landlord, ie would meet the balance of £10 per week of weekly rent. That is how I think I understand the system works and I therefore feel very strongly that that system

should continue. Moreso, as I had a lot to do with introducing it when I was Minister for Labour, as it used to come under the Department of Labour at the time, and unless I can be satisfied as to the EEC dimension or unless I can be guaranteed by the Honourable Minister that exactly the same provisions which are now statutory are going to be incorporated into an administrative scheme and are going to be applied as they are at present. I am not too worried about other criticisms that I may have of the Government later on in respect to pensions and social security because in any case the people who are eligible to rent relief are very low income groups and who are assessed under what used to be the Supplementary Benefit Scheme, as in the case of pensions where Statutory Rights could be lost and perhaps an element of means testing might replace that. Means testing already exists for rent relief and that is why I do not have such fundamental objections if the Government is going to apply the same guidelines, the same policy as a scheme of social assistance. If the Honourable Minister feels that the EEC dimension is a little bit sensitive and he does not wish to elaborate, I can understand that and perhaps he can reassure me.

HON CHIEF MINISTER:

Mr Speaker, as the Honourable Member opposite has said, the provision in the Landlord and Tenant Ordinance is in respect of private sector tenants in rent controlled properties. The bulk of the recipients of rent relief are Government tenants and that is not being altered in any way by the change in the law, so in fact it is only a minority of the people who are currently receiving assistance from the Government that are affected by the Statutory provision. We are taking advantage of the fact that we are bringing this legislation to the House to pre-empt something from happening, rather than seek to prevent it, very much on the lines that Members opposite did when they removed the Statutory EPP, and for very much the same reasons, and for the same reasons that they felt at the time that the less said about it the better, the same reasons apply today. I can tell the Honourable Member that we are getting difficult questions to bat even about that, although I know that at the time the advice from Mr Hannay was that they were on safe grounds. I can tell you that we are now having doubts cast on how safe those grounds are in respect of EPP/EPA. What I can give the Honourable Member is the assurance that he is looking for, that is to say, it is not the intention to change the system, it is the intention to continue with the system with the same criteria and the same levels and if it is replaced I can give an undertaking that it will be replaced by something that is more generous and not less generous. This is not a measure intended to save public expenditure because the public expenditure in this area anyway is very small. We are not talking about that, we are talking about a situation where

potentially we are now, if you like, hypersensitive to claims surfacing and us being caught without a way out and therefore every time we look at something we are looking at it on the basis of distancing Statutory Entitlements from payments which are discretionary. The criteria that the Community adopts in distinguishing between Social Assistance and Social Security which is not limited exclusively to contributory rights but to rights that can be obtained on demand as opposed to something that is given, for example, our Supplementary Benefits Scheme is one for which there is no power in any law, even the Rules that determine what is granted or not granted are not specified anywhere, so it is a matter that is completely discretionary, nobody can claim that it is anything other than Social Assistance by any stretch of the imagination, but even there, I can tell the Honourable Member, that the distinction, for example, on the three year residence for United Kingdom citizens has been questioned by more than one individual. I think in fact in one particular case, the questioning had started even before the election and the Honourable Member may know about it. That is the explanation for that particular element. I think on the question of the points made by the Honourable Mr Britto about the overall review of the Landlord and Tenant Ordinance, this is not it, obviously, this is something that the Minister for Housing is still looking at. One of the things, and it is a difficult one, because one of the things that everybody tells you is that the Landlord and Tenant Ordinance is a mess because of the many times that it has had bits grafted on to it it has got to a stage that there are people who say that there are bits of the Ordinance that if you comply with make you break other bits of the Ordinance, but its a catch 22 situation. There are things that are pressing which we want to do, the question is do you do nothing until you can do it all or do you do something shortterm? This is in fact the reason why the Ordinance is a mess because every previous administration caught by that conflict has finished up by saying "well, let us do an emergency operation on this section, and let us look at the whole Ordinance with a global view to make a fundamental reform at a later stage". In fact, the Honourable Member must remember that the House actually set up a Select Committee which spent four years trying to come up with a new Landlord and Tenant Ordinance and at the end of the day the Select Committee which was made up of the Honourable Mr Featherstone, as Chairman, I think, and Members from both sides of the House. We had a very peculiar situation in that some of the people who were in the Select Committee, and I think some of them are now sitting on that side of the House, and they finished up voting against the recommendations of the Select Committee to which they had belonged. So clearly it is a minefield and I think there are loopholes in the law as it stands now which need closing. We felt at the time that this was one particular loophole, of somebody being able to carry out repairs to a building and then that building becomes de-

controlled. What we argued was that the fair thing to do as between the tenant and the landlord was that if the landlord spent money then the landlord should be entitled to claim a rent increase in relation to the level of investment that he has made. But not an unlimited rent increase. That is what the present amendment allows. This was originally accepted by the AACR, as my Honourable Friend mentioned, I think it was passed in June and was then repealed in July, so it never worked. We are hoping that this time round it will work and that the Rent Assessor will be able to look at such properties and come up with a compromise that will be fair to both sides. With regard to the other part the position is, as my colleague has said, that the law that was originally brought to this House, and in fact, read a First and Second time but it never went to the Committee Stage. If the house had less than five occupants it was decontrolled from the Labour from Abroad Ordinance and we argued from this side; "well, who is to stop landlords, if they have five from throwing one out and keeping four and then they are decontrolled". So, effectively, it made it possible for anybody to become decontrolled without necessarily giving them the protection that we are doing. What we are doing which is probably totally new, is to say, "the moment we repeal the Labour from Abroad Accommodation Ordinance for the purpose of those places which are currently rented under the Labour from Abroad Ordinance the official rent becomes the new Statutory rent". That is a thing that was missing in the previous Ordinance which failed to give any protection because you could have a landlord, if the Public Health thought that you must charge £9 rent, and he had five guys in a room, he would then say to himself, well I throw one out and I can charge the other four £20 rent and I get £80 instead of getting £45, and there was no way of preventing that, as the law was drafted at the time, and we say the situation where it created a new loophole and I think we argued with sufficient conviction from the other side to make the Government, the previous AACR administration, have second thoughts about it at the time and they did not proceed with it. There has however been pressure for some time for something to be done and we are hoping that effectively by bringing everything under the ambit of one Ordinance we will be able to provide equal treatment. Let me say that the whole concept of Labour from Abroad and aliens, as if they came from another planet, is quite frankly out of tune with todays world and we have a peculiar situation because as I understand the law when we joined the Community the application of the Labour from Abroad Accommodation Ordinance ceased to apply to Community Nationals. A Community National now does not need a work permit and does not need a Contract for Employment and therefore does not need to have Labour from Abroad Accommodation approved. So the moment that a Spanish or Portuguese National that may be living here, once the transition period expires, would cease to be allowed to live in premises registered under the Labour from Abroad Ordinance.

Clearly that is not the intention but that is the effect and I hope that Members will support it because although we know it is not the final answer we hope it will get us there.

HON P C MONTEGRIFFO:

Mr Speaker, there is one point which I would like to make on the Section 69 Amendment and which is the Section which deals with premiums payable to a landlord in the case of a tenant assigning his lease. Sir I think that although we again have no difficulty with that specifically I think it is bad law simply to say that if somebody is aggrieved by the amount of premium that the landlord wants to charge, that it should simply have the right of appeal to the Supreme Court for the Court to decide what is just. I say so because I do not think what we want, surely, for people to be rushing to Court. The last thing we want to do is to burden the courts and the lawyers with modifications. What we should be doing perhaps, and I do not know if the Government will have time for this, is to establish some criteria to which the courts could have regard to, but which people negotiating such premiums could have recourse to so that at least they could be given a chance to sort such matters amicably rather than what is simply now an unknown quantity. Until you have some cases, three or four at least, where the judge has said "I think just means a, b, or c", we are caught in a very odd situation. I would suggest Mr Speaker, if you simply said, "the criteria shall be for example, length of lease left, rent that is charged, the amount of premium which a landlord is earning etc" this would help landlords, tenants and the parties involved to perhaps arrive at their own just situation rather than simply saying "court you decide". Quite apart from the fact that the judge from his own point of view, is going to say, what do I think is just, if the law says ...

HON J L BALDACHINO:

If the Hon Member looks at Section 69, Mr Speaker, and if I am correct, it has nothing to do with the lease. What happens is that if somebody, for example, who has a lease it is immaterial how many years there are still left, but he wants to change his type of business ... yes, Mr Speaker, if the Hon Member looks at the law, he will see that there are two things even if the person wants to change his line of business he still has to pay the premium of two years. Even if he assigns the business, he still has to pay a premium of two years and he can check the law. I am sure that that is correct. I do not have the law with me, but I think that is correct.

HON P C MONTEGRIFFO:

Mr Speaker, with respect, the terms of Section 69 what it says is that "a tenant cannot transfer his lease unless

there is prior written consent from the landlord and in the vast majority of situations, the Minister may be indicating a point that sometimes occurs, which is that a tenant himself wants to change his line of business and the landlords consent is sometimes required. But, if you look at sub-section 3, then what that says is "that it shall not be lawful for an assignee referred to in Subsection (2), materially to change the kind of business carried on by him in the holding without the prior consent of the landlord". In fact my understanding of the law says that the landlord's ability to claim a premium does not really come into play when there is a change of use, but in fact his consent is required and from a commercial point of view, that normally means that the landlord says "I want money". But the actual mischief that the Section normally deals with Sir, is the question of the transfer of the lease, and all I am saying is that I am not sure the Government will have time and maybe it can be done through a subsidiary legislation by simply adding something that in that respect there would be no objection. The regulations determining the criteria for such an application might be more useful than to have people rushing to court without knowing what is just. For example if there is one year left of the lease and you transfer that, the premium should be less presumably than if there is ten years to run. I do not know what is best because there are a number of arguments. In one case I know of Mr Speaker, there was an actual tenant who left Gibraltar and he closed the business and said I am off, he could not surrender the lease back to the landlord because there was a penalty clause and he transferred the lease to a third party did not get a premium at all but still had to pay the landlord two years rent. That I think, Mr Speaker, is an absurdity but in the absence of some criteria, there is just a complete vagueness and it would be useful if perhaps the Government would consider putting a little flesh on this to allow people, when negotiating in such situations, to know what sort of line the courts would take. Otherwise there would simply be applications to courts until the judges themselves define a certain situation. I say this, Mr Speaker, because reading the Bill professionally, if somebody were to say "what does this mean"? It means "try the judge and if he got out of the right side of the bed this morning he will say that if the law says you can charge a landlord up to two years why should it not be two years."

MR SPEAKER:

I think this is a matter that could be taken at Committee Stage. If no other Member wishes to speak, I will call on the mover to reply.

HON J L BALDACHINO:

Mr Speaker, we will certainly look at the arguments put forward by the Honourable Mr Montegriffo, at Committee Stage, and let me assure him that this amendment is something that we have brought to the House because some of his colleagues, in the legal profession, have asked us to do so. Just one final point, Mr Speaker, in answer to the Honourable Col Britto, even though I understand that in our manifesto it states that we will review the Landlord and Tenant Ordinance, and the Chief Minister has already given an explanation on that account, at Budget time Mr Speaker, I did say that we would be bringing some amendments to the Landlord and Tenant Ordinance in this Financial Year precisely in those areas where we thought that certain sectors of our community needed the protection. Mr Speaker, after the explanation and assurance given by me and by the Chief Minister I hope that the Opposition will now be in a position to vote in favour of this amendment. I commend this Bill to the House.

Mr Speaker 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 R Mor
The Hon J L Moss
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon J E Pilcher
The Hon J H Bautista

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 E Thistlethwaite

The Bill was read a second time.

HON J L BALDACHINO:

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

This was agreed to.

The House recessed at 8.00 pm.

TUESDAY THE 1ST AUGUST, 1989

The House resumed at 10.40 am.

THE TRAFFIC (AMENDMENT) (NO. 2) 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, there was previously an independent Chairman of the then Transport Commission. Then as a result of the various problems arising with Taxis and other Traffic matters the previous AACR administration altered the law and changed the name of the Transport Commission to Traffic Commission and appointed the Minister with responsibility for Traffic to be the Chairman. We were then in Opposition and at the time said that we had a different view of matters and if we ever got elected would reverse the decision. This is what the amendment of the Traffic Commission at Section 2, of the Bill which we are considering this morning, does. The other thing is, of course, that the two main bodies representative of public transport would be each given a seat in the Traffic Commission and the third amendment arises out of an agreement with the Public Services Vehicle Association that buses, on route, would not be older than 12 years old and this comes into effect in October this year. You will recall, Mr Speaker, that I announced, at the time of the Budget that such an agreement had already been signed and was expected to lead to an improvement in the condition of buses and the service generally. I commend the Bill to the House, Mr Speaker.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, I take the view, particularly so having regard to the problems that have bedevilled traffic in the past, that the whole question should be depoliticised to the greatest possible extent and we therefore support the amendments. In particular the one creating the new composition for the Traffic Commission which we hope will make it possible for the Commission to do its work in a more relaxed atmosphere, as it were. We have no difficulty in supporting the amendments which give representation to the Associations that are most closely connected with this sort of commercial activity and again we have no problem in supporting the amendment whereby buses which are more than 12 years old will not be granted a Road Service License. I hope that the actual period in question, 12 years, may be kept under review in the light or practical experience. We will therefore be supporting the Bill.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, I thank the Honourable the Leader of the Opposition for his support to the amendments. The question of the age of the vehicle is something that was negotiated and the negotiations stopped at 12 years on this occasion to allow the operators sufficient leeway to be able to replace their buses. It is certainly not something which cannot be reviewed at a regular basis and I take the Honourable Member's point.

Mr Speaker then put the question which was resolved in the affirmative and 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 a later stage in the Meeting.

This was agreed to.

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) ORDINANCE, 1989

HON J C PEREZ:

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

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

SECOND READING

HON J C PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, again the amendments proposed here are quite self-explanatory. The main object of the Bill is to allow the Telephone Department to become a Company in the future so that the obligations under the Ordinance can be contracted out to a Company, but those obligations would continue to exist although on a contractual basis. As Honourable Members know, proposals for the formation of a Joint Venture Company with regard to the Telephone Service are presently being looked at. Not all of the proposals have yet been received and in anticipation of this happening we have brought this amendment to the House. On the question of the Cost Adjustment Formula, Mr Speaker, the present Cost Adjustment Formula we feel will not be able to cater in the same way for the changes that are going to take place in power generation and that other items which could in the future replace the fuel as a direct cost to the Government should be allowed for in the future and this amendment will empower the Government to be able to make the necessary changes when the situation changes from having a sole direct source to perhaps buying from a different quarter. For example, what we were discussing the previous day at Question Time in connection with the Honourable Member's reference to the new Power Station. The other amendment is the question of the data circuits and that is quite straightforward. It concerns the changes in the rates of the data circuits which is something that is decided by agreement with the receiving authority. I commend the Bill to the House, Mr speaker.

MR SPEAKER:

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

HON K B ANTHONY:

Mr Speaker, we on this side of the House will be voting against this Bill. The reason is mainly because it is to create a further Joint Venture Company and as the House knows very well we are not in favour of Joint Venture Companies, in principle, and certainly we are against creating a Joint Venture Company in the Telephone Department. Therefore I will be leaving for Committee Stage certain points, but, in principle, we are going to vote against the amendments.

HON A J CANEPA:

Mr Speaker, I would just like to add something on the question of the Flexible Cost Adjustment Formula. The Minister has said that the present Fuel Cost Adjustment Formula will not be able to meet the situation that would arise with the changes that are planned for the future with regards to power generation. He has not said very much more than that. I would like to ask him to explain whether in this Flexible Cost Adjustment Formula, which is going to be the subject of further Subsidiary Legislation in the way of Rules, what are the matters that are going to be taken into account? What costs are going to be passed on to the consumer on a regular basis? For instance, if the cost of spares used in the generating equipment goes up, is the Flexible Cost Adjustment Formula going to reflect that? If there are wage increases or indeed any other type of increases voted in this House under the numerous items of expenditure for the Electricity Undertaking, are such increases going to be included in this Flexible Cost Adjustment Formula automatically and passed on to the consumers? If this were to happen the effect would be that the Government would not have to come to the House and legislate to change the tariffs, they would be able to do so through the Flexible Cost Adjustment Formula. I am also worried that if matters other than fuel are to be taken into account, and I have mentioned a couple of examples, whether we are not in fact creating a precedent. Today it is a Flexible Cost Adjustment Formula for Electricity, tomorrow it could be for Water because the cost of spares for the Desalination Plant may also be passed on to the consumer. The cost of the wages at the Desalination Plant may also be passed on to the consumer, so I would really like the Minister, when he exercises his right to reply, to tell us a little bit more before we go into Committee as to what is exactly envisaged.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, I will take the Honourable Mr Ken Anthony's points first, and I am surprised that they should be voting against this because they do not believe in a Joint Venture to run the Telephone Service, when they were the ones that instigated the Joint Venture to run the International Telephone Service and they were the ones that set up Gibtel.

HON A J CANEPA:

If the Hon Member will give way. We got proposals some years ago from Cable and Wireless that the whole

International Telephone Service should be privatised. We considered those proposals and Council of Ministers, in principle, were against that, whilst ideologically we have never thought that there should be, unless it was justified, wholesale nationalisation in Gibraltar, nevertheless we as a party took the view that we were not prepared to denationalise what was already nationalised. That was the view that we took with regard to the International Telephone Service affecting the Telephone Department and that view is reflected in the attitude that we adopt towards these Joint Venture Companies. We take a more limited view also than the Honourable Members opposite do in respect of the Joint Venture with British Telecom.

HON J C PEREZ:

Be that as it may, Mr Speaker, I was involved even in Opposition, because the Government did agree to consult me on it because the changeover date was very near the time of the Election and I remember clearly that the Honourable Mr Brian Perez, who was then the Minister responsible, was only reluctant to go forward with the Telephone Department because he thought he could not achieve it, because there were too many obstacles to overcome. Be that as it may, I believe what the Honourable Member is telling me, there are no two ways about it. I have already explained on various occasions that the whole concept of having a Joint Venture is to obtain the technical backup and the back-up for the purchase of equipment and for keeping up with the latest technology. If there is a serious telecommunications partner, which is a part of the Telephone Service, their participation obviously would help in the development of the network for the foreseeable future. On the question of the Fuel Adjustment Formula which the Honourable Mr Canepa has raised, it is not the intention at the moment to do anything other than to have fuel there, but there have been different changes in the way fuels are used and the introduction of the new Power Station by a UK contractor would mean that a very large proportion of light fuel would be used as opposed to the heavy fuels that we are presently using. There would be a great imbalance in the Cost Adjustment Formula as it is today which only takes into account a 10% use of light fuel as opposed to the 90% use of heavy fuel and that imbalance needs to be cured in a way that reflects the real position at the time. But at this stage, certainly, the only consideration is the question of fuel. I am sorry if I misled the Honourable Member by making him believe that we were talking about spares and things like that. It is just that the negotiations that are taking place with the Company will reflect that the cost element to the Government would be linked to fuel. I believe that answers all the queries, 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 J H Bautista

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 E Thistlethwaite

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 a later stage in the meeting.

This was agreed to.

THE GIBRALTAR BROADCASTING CORPORATION (AMENDMENT) ORDINANCE 1989

HON J C PEREZ:

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

Mr Speaker then 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, the first amendment is the question of the repealing of the Section which abolishes the power of the non-existing Managing Agents to appoint

advisory members and which is something that has not been used for many many years although it has remained in the Statute. It is just a technicality and we are changing this to clear the Ordinance of something which is no longer effective or relevant to the Gibraltar Broadcasting Corporation. As far as the question of having nine members in the Board, at the moment we have a Chairman plus seven Members, this has been kept in case we need to add representation to the Board at a future date but it is not something that requires any action because the Ordinance states that the Board may be composed of nine or less members and it is not an obligation for all nine members to be appointed. At this stage the Board will remain as it is, we have to discuss things with the Staff side and with the Management. My own thinking of the matter is that perhaps the Management and the Staff side should be represented directly in the Board, but this is something that needs to be discussed and I want to have the leeway to be able to use it if necessary at a future date. With regard to this question of the borrowing powers of the Corporation, this is something that the Corporation has been requesting for a very long time and it is something that the Government agrees with because it will allow the Corporation to become more commercially minded and be able to operate much better in the commercial world. It is a radical new step that the Government is taking but it is something which the Corporation has been after for a long time and which we feel is justified particularly in the changing climate that we are living in. I commend the Bill to the House Mr Speaker.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Mr Speaker, we support anything that will lead to GBC becoming more viable and in this respect the power to borrow, which I think is a step in the right direction, is something which we will be voting in favour. There are a few questions that I would like to raise Sir, one is to what extent has there been consultation with GBC and perhaps the Chief Minister can let us know the position. Secondly it would also seem that if the intention is to give GBC a chance to become viable and my understanding is that the ability to create companies which would be able to independently run commercial operations like Telebingo, for example, which I think is now done with the Casino, is something which the Corporation has been seeking for a long time, and perhaps the Minister may know if there are any other further plans in the short term to further extend the possibilities of GBC in this viability. I should be grateful for any information that the Hon Minister may be able to provide.

MR SPEAKER:

Does any other Member wish to make any other observation? I will then call on the Mover to reply.

HON J C PEREZ:

Mr Speaker, as far as the first point that the Honourable Member raised on the question of consultation, this is a matter which was raised about four or five years ago by the then Board of GBC with the previous administration and the process of consultation had been gone into in depth by the time we came into office and we indeed took the matter up with the old Board and subsequently with the new Board. So yes, the matter has gone through the very long process of consultation and we are giving effect to that consultation. Whereas Members opposite, I believe, failed to do anything about it we have agreed to proceed with the matter. As far as the question of the companies that the Honourable Member has raised, the Ordinance only gives GBC borrowing power, the Government does not run GBC. There is an independent Board and there is a management that runs GBC. If through that borrowing power that it now has GBC decided to form companies so that it can operate more efficiently than that is something for the management and for the Board to decide, with no Government or Opposition interference.

HON P C MONTEGRIFFO:

If the Honourable Member will give way. My understanding is that GBC would like to create such companies, but that they do not feel that they are empowered to do so and that is why I am asking the Minister to perhaps take the matter up with GBC. At least that is the information that I have.

HON J C PEREZ:

Mr Speaker, what I am saying is that this legislation has nothing to do with what the Honourable Member is talking about. The fact that they now have borrowing powers and they might want to operate that system is neither here nor there. We are here voting the borrowing powers of the Corporation. If the Corporation then takes a decision subsequent to that because of the Ordinance it is up to them.

Mr Speaker then put the question which was resolved in the affirmative and 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 a later stage in the meeting.

This was agreed to.

THE EMPLOYMENT (AMENDMENT) ORDINANCE 1989

HON R MOR:

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

This was agreed to.

SECOND READING

HON R MOR:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the sole purpose of this Bill is to introduce EEC Directives which have been long overdue. In fact you may recall Mr Speaker, that yesterday the Honourable the Chief Minister was highlighting the fact that there were urgent EEC Directives dating back to the 1970's. In this particular case these Directives date back to 1975 and 1976. The 1975 Directive refers to the principle of equal pay and the 1976 Directive refers to the principle of equal treatment at work for men and women. The introduction of this Bill sets down clearly the parameters laid down by the European Economic Community on how sex discrimination must be avoided in employment, but whilst it stresses the fact that there shall be no discrimination whatsoever on grounds of sex as regards treatment and as regards pay, it does however allow sufficient flexibility not to hinder cases where in particular occupational activities, the sex of the worker constitutes a determining factor. The Bill also states that any laws or administrative provisions which are contrary to the principles of this Bill cease to have any effect. The Bill also further allows that any person who has recourse to complain can do so to an Industrial Tribunal, should it be felt that there has been an act of discrimination which is contrary to the provisions of the Bill. Finally, Mr Speaker, this Bill also requires that it shall be the duty of employers to bring to the notice of employees by appropriate means, including posting at the place of employment, the principles contained in this Bill. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, the Opposition will be indeed voting in favour of the Bill. The only thing I would like to say is that the Sections which have been repealed 48, 49, 50 and 51 of the Principle Ordinance incorporate to some extent part of which the Minister has already said but I fully take his point that the object of the Bill is to fully incorporate into the Employment Law the European Community Council Directives as spelt out in 1976 (207) of 1976 and 1975 (117) of 1975. Thank you, Sir.

HON A J CANEPA:

Mr Speaker, I do not know whether arising from this Bill the Attorney-General is in a position to inform the House about the whereabouts, or what is likely to happen, to the Sex Discrimination Bill which was on the Agenda and I think it was given a Second Reading in the last House of Assembly and whether it is still on the stocks awaiting further information from the United Kingdom? What are the Government's plans in respect of that piece of legislation?

HON ATTORNEY-GENERAL:

This substitutes and replaces that Bill which, of course, fell away with the dissolution of the House.

HON A J CANEPA:

This is that one entirely?

HON ATTORNEY-GENERAL:

Entirely. This one implements the Directives word for word and we will not get into the same situation as the United Kingdom Government got into by trying to change round the wording of the Statute away from the Directive and of course it fell foul of the European Court of Justice on I think three occasions. We have got the exact words of the Directive, therefore hopefully we cannot be wrong.

HON A J CANEPA:

What a pity, Mr Speaker, we did not have a legal adviser to the Government in 1976 or 1977 to advise in those terms.

MR SPEAKER:

If no other Member wishes to make an observation, I will call the Mover to reply.

HON R MOR:

Mr Speaker, I have really nothing further to say, apart from giving notice that I will be moving some very small amendments during the Committee Stage.

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

HON R MOR:

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 DRUGS (MISUSE)(AMENDMENT) ORDINANCE 1989

HON J L MOSS:

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

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

SECOND READING

HON J L MOSS:

Sir, I have the honour to move that the Bill be now read a second time. The Bill which we have here before the House is, I feel, something completely uncontroversial and which I hope can enjoy the support of both sides of the House in what it is setting out to do. What it is setting out to do, namely, is some kind of criteria so that we can establish for the benefit of juries what exactly is, what can constitute possession, with intent to supply and we do this not lightly, Mr Speaker. We do this because there has been increasing incidents where lawyers have been arguing that possession of what I can only term as extraordinary amount of drugs have been for the use of the person caught in possession. This is blatantly something ridiculous, but there is nothing in our laws up to now which prevent this from happening. So if the Honourable Members have had a chance to read through the Bill, they will see that whilst not draconian, the amounts that have been identified by the Legal Department in conjunction with the Police are quantities which certainly would seem to constitute possession with intent to supply and I am sure that nobody in this House can be in favour of that. Other than that, Mr Speaker, all that remains for me is to hope again that there will be support from both sides of the House and to commend the Bill to the House.

MR SPEAKER:

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

HON M K FEATHERSTONE:

Mr Speaker, we shall be supporting this Bill. We feel that it is a good Bill. There is only one small point of contention, we wonder whether the actual weights which are put out as commercial quantities, are, if anything, a little too generous. Three grammes of cocaine is a considerable amount of cocaine and it is perhaps a little generous to be the amount specified for commercial quantities. We would perhaps like to see a smaller quantity put in rather than the actual amount stated, otherwise we support the Bill.

HON ATTORNEY-GENERAL:

Mr Speaker, at the Committee Stage we can amend the amounts to reduce them. Certainly the LSD at three grammes has to be reduced. It will be reduced to 1 milligram actually. All the amounts can be amended at the Committee Stage.

HON P C MONTEGRIFFO:

On whose advice were these tabled? Was it on medical advice or was it the Attorney-General himself, is it based on the UK precedence?

HON ATTORNEY-GENERAL:

Proposals were circulated to the Customs Department here and to the Police and I think each of them consulted their counterparts in the UK, and these were the figures they came up with. But as I said the three grammes for LSD is much, much, much too high.

HON M K FEATHERSTONE:

I am glad the Hon Attorney-General takes the point.

MR SPEAKER:

I will now call on the Mover to reply.

HON J L MOSS:

Mr Speaker, I would just like to welcome the support of the Opposition on this Bill and reassure them that we will look at the quantities more seriously at the Committee Stage to see whether they can be amended downwards.

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

HON J L MOSS:

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 CRIMINAL PROCEDURES (AMENDMENT) ORDINANCE 1989

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. The object of this Bill is to empower the Court to suspend part of a sentence of imprisonment. At the present time the Courts may only suspend the whole of a sentence and not just part of it. Under the Bill where the Court passes a sentence of between three months and two years, Mr Speaker, it may order the offender to serve part of the term in prison and suspend the remainder of the term. The part of the sentence to be served in prison shall not be less than 28 days and the part to be suspended shall not be less than one quarter of the whole term. The Bill which is based on the provisions of Section 47 of the United Kingdom Criminal Law Act 1977 was requested and has been seen and approved by the President of the Gibraltar Court of Appeal. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Mr Speaker, we welcome the Bill. We have no difficulty with this and it gives the Courts further flexibility in appropriately dealing with offenders as the circumstances may deem appropriate.

HON A J CANEPA:

If I may crave your indulgence, Mr Speaker, seeing that we have a Criminal Procedure (Amendment) Ordinance, I would like to ask the Attorney-General whether any thought is being given to enacting in Gibraltar similar provisions to those enacted in the United Kingdom, whereby a Court of Appeal may increase a sentence. I am referring to the case yesterday where there was a first ruling from the Court of Appeal arising from the new legislation.

Is the Government and the Attorney-General in particular giving any thought to enacting similar legislation in Gibraltar?

MR SPEAKER:

I will now call on the Mover to reply.

HON ATTORNEY-GENERAL:

It is a thing on which I will have to consult with the Judiciary Mr Speaker, and after consulting with the Judiciary to consult with the Government, but I think the Judiciary must be my first priority, to have a word with them and see whether or not they would support such a measure.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE TRUSTS (RECOGNITION) ORDINANCE 1989

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to make the law of Gibraltar relating to Trusts accord with the provisions of the Convention of the law applicable to Trusts and their recognition, be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the objects of this Bill are: (a) to enable Gibraltar to be included in the UK ratification of the Convention of the law applicable to Trusts and on their recognition and this Convention was the one that was agreed to at The Hague on the 20th October 1984, and (b) is to bring into force in Gibraltar the main provisions of the Convention. The purpose of this Convention, Mr Speaker, was to establish common principles between States on the law of Trusts and to deal with the issues concerning the recognition of Trusts. Trusts are not a concept familiar to some, indeed many Countries Mr Speaker. Their systems of law are not designed to

accept that one individual may hold assets on behalf of another. To give an example, at present if there are Trusts assets in a foreign Country and the Trustee incurs liabilities in his personal capacity, the assets of the Trusts are liable to be seized to meet the debts incurred by the Trustee. In order to avoid this and other difficulties, the Convention was negotiated. The Schedule to the Bill, Mr Speaker, contains most but not all of the provisions of the Convention. You will see from the Schedule that the Convention is split up into four chapters. Chapter I outlines the scope of the Convention and in particular it provides guidance as to whether something is a Trust covered by the Convention, and I would draw your particular attention to Articles 2 and 3 as contained in the Schedule. Chapter 2 identifies the national law applicable to any particular Trust, and you will see from Articles 6 and 7, that the law is the law that is chosen expressly or implied by the person who creates the Trust, and if no such choice is made the governing law is the law of the Country with which the Trust is closely connected. Chapter 3 deals with the extent to which the Trust is to be recognised in accordance with the governing law by States that become a party to the Convention. Such recognition involves as a minimum that the Trust Property exists as a separate fund, and that the Trustee may bring and defend proceedings in his capacity as a Trustee and as a separate Fund. Mr Speaker, the Trust Fund will have a legal existence separate from the other funds in general and the Trustees Fund in particular, thus the Trustees personal creditors will have no recourse to the Trust's assets, even though they are held in the name of the Trustee. Chapter 4 contains a number of Articles of general application. If you go back Mr Speaker to Clause 3 of the Bill and you see Clause 3(1) provides that the provisions of the Convention as set out in the Schedule shall have the force of law in Gibraltar. Clause 3(2) provides that the Bill covers not only the categories of Trusts described in Articles 2 and 3 of the Convention, but also Trusts arising (1) under Gibraltar law or, (2) Trusts arising by virtue of a judicial decision made in Gibraltar or elsewhere. Clause 3(3) provides that the Convention shall not prevent the application of the laws of the Country in which an action relating to the matter specified in Articles 15 and 16 is brought. However, Mr Speaker, if the law in that Country prevents the recognition of the Trust the Court must try to give effect to the objects of the Trust by other means. Clause 3(4) of the Bill defines the word 'State' as used in Article 17 of the Convention and Article 22 of the Convention provides that the Convention shall apply to Trusts whenever such Trusts were created. However, Clause 3(5) ensures that this is not to be construed as affecting the law to be applied in relation to anything done or admitted to be done before the Bill comes into operation. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Mr Speaker, we in the Opposition welcome the Bill and have no difficulty with this, but we feel it is important to highlight what it is that the Bill does and does not do and the priority which we would like to see Government take in relation to legislation on Trusts generally, which we feel applies to a number of areas of more importance than in fact normal recognition of this Convention. To the point that, as we see it, that it is important to state is that the Ordinance, although informally incorporates Gibraltar's approval to recognition of the Convention thereby allowed in the UK formally to ratify it does much more for others than it does for us, inasmuch as we have no problem in that there is no difficulty for Gibraltar although UK recognising the Trust. The problem is the Civil Law Countries, Spain, France, Germany etc, that would have a difficulty in recognising with the Trustees. So in a sense our passing of the law today is not doing them a favour putting it too high, but it is really doing something to allow the whole jigsaw to be completed, but it is not something about which we are deriving a direct benefit from really. Because of that Sir, it really is necessary to point out that there are other provisions in our Trust law which require urgent attention. Ministers opposite are aware of certain of the amendments that are requested by professionals in particular as regards as a protection and a continuation of maintenance settlements. Those I will not deal with in detail because they do not relate to this particular Bill, but there is one other which in fact has a bearing on this Bill Sir and which perhaps could also be introduced quickly. That is the question of what we would describe as forced heirship? The present Bill and The Hague Convention, specifically The Hague Convention, states that the recognition of the Trust by say Spain, France or Germany is entirely without prejudice, entirely irrelevant to Forced Heirship Rules which those Countries might have. So given the law of France, the law says that a person who dies has to give his wife and his children one third of his Estate as is the case of the Civil Law Systems on the continent. Even if a Frenchman says "I have set a Trust up and I leave everything to the Red Cross in Geneva", the French Authorities would say "we recognise the Trust but only inasmuch as it does not conflict with what we call 'Forced Heirship', which means that the wife and children would get their share". Now The Hague Convention specifically says that the recognition does not affect Forced Heirship and that therefore a Frenchman cannot get away from that situation. Obviously for a jurisdiction like Gibraltar, where you might get

a Frenchman coming saying "I want to set up a Trust in Gibraltar whatever the French rules says, I want to do this, will Gibraltar do it?" And Gibraltar would then set up a Trust for him. There is some doubt as to whether even in Gibraltar if the son of a Frenchman went to Court and said "Look, this man, my father, put money into a Gibraltar Trust and therefore I have not received any money, you should not recognise the Trust, you should give me one-third of the money", that is an argument which I could accept and that even the Courts here would say, "it would be against public policy for Gibraltar to have Trusts which break French Forced Heirship Rules and therefore I am going to ignore the Trust to the extent of the Forced Heirship entitlement which the son has got". The Cayman Islands have got round the problem, by actually including in their law, Mr Speaker, a provision that says that notwithstanding what any Forced Heirship Rules may say of any Country, that a Trust set up in the Cayman Islands shall, in fact, be upheld by the Cayman Islands Court and is therefore a totally safe vehicle. That is the sort of legislation perhaps that could follow the one before us today as part of the general package of the other Trust Amendments that should be in the pipeline, because it would give investors in Gibraltar, who want to do this type of thing through Gibraltar a degree of confidence. Other than that Sir, we welcome the Bill and look forward to further amendments on Trusts generally. There is, however one concluding point perhaps, Sir, that I should make and which is the matter of general comments which I invite the Chief Minister to consider in particular. This is in connection with the arguments yesterday that amendments to the Income Tax Ordinance were necessary to give the Government flexibility to change the law quickly in order to give investors and people wanting to use Gibraltar quick solutions when they need something to be done. Now if there is merit to that argument and there is merit to that argument per se, how you do it is a different thing, the argument I think runs into difficulties in that a whole series of other legislation on Trusts, Stamp Duties, Companies Ordinance etc is subject to the same difficulties and if we are to go down the road of everything being done by Regulation, then we can abolish the House and have a dictatorship. Now the point that I thereby wish to stress is that it would be wrong to give the public the view, Sir, that by flexibility of the Income Tax Ordinance, we are giving the Government flexibility to respond to the change that is needed. In fact, in my experience, the changes most often required are outside the Income Tax Ordinance and are in the Stamp Duties, Companies' Ordinance, Trusts Legislation etc. I just mention this as an indicator Sir, to illustrate that it is not so easy to just say "we have Income Tax flexibility, that will solve our problem, we can now respond to the International Investor". When in fact a whole range of legislation requires quick updating and I end by saying that it might be more

productive if rather than taking powers away from this House, like in the case of the Income Tax Ordinance, the Government were to agree, if need be, with the Opposition or with the Commission, when that is set up, a particular procedure for amending specific elements of half a dozen or a dozen Ordinances of this nature and which would provide a speedier and more effective machinery to introducing legislative changes that the international investors may require. Thank you Sir.

HON M A FEETHAM:

Mr Speaker, I was not going to say anything on this particular Bill, I was going to leave it to the Attorney-General to respond to one or two of the observations made by the Honourable Member Mr Montegriffo. But since the Hon Member has gone out of the general scope of this Bill, I think that I should reply to the points that the Hon Member has raised. Mr Speaker, the Hon Member has failed to give recognition to the fact that this Government is moving into a situation where it wants to respond to market forces, it wishes to respond to the competition that is very possibly there from other Financial Centres Institutions worldwide and that to do so, it cannot wait around for legislation which at times take up to fifteen months to be discussed in this House. So the policy is to move into a situation where we are going to have small enabling pieces of legislation mainly governed by Regulations and where one can adapt and introduce changes. Let me remind the Honourable Member opposite that the Financial Services, the proposed Financial Services Ordinance which has now been published. This was something which had been mentioned by the previous administration since 1986 and which we the Government have taken on board and drafted in conjunction with the advice and assistance of the Financial Sector professionals in Gibraltar. This is indeed a major policy initiative on the part of the Government and in setting up the Financial Services Commission, which is going to be responsible for removing this type of legislation away from its previous Civil Service environment to be able to respond, with the necessary flexibility and do away with long winded pieces of legislation that have to come to this House every time a minor amendment is required to respond to requests from persons and institutions in the Financial Services Sector. That has to be the case Mr Speaker, and of course there are other areas of Trust Laws that at the moment we are very seriously looking at, but like everything else in the system that one is working today it has to await its priorities. As the priorities of the Government have been (a) the Financial Services Legislation and (b) the setting up of the Financial Services Commission. All other matters relating to the Financial Centre activities will now be considered by the Financial Services Commission and I am sure the general improvement of responding to

changes like Trusts Laws and Protection Trusts and so on will be taken on board by the Commission and we will be able to move at a much quicker pace in the future. Thank you, Mr Speaker.

MR SPEAKER:

If no other Member wishes to speak, I will ask the Mover to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I have noted what the Honourable Member of the Opposition had to say and so has the Honourable Minister.

HON P C MONTEGRIFFO:

Mr Speaker, it is not an erroneous impression that I have created and I am not questioning the Government's commitment to promoting the Finance Centre. What I am questioning is the methodology which is being used by the Government to obtain the flexibility which we accept is required to be able to respond to the needs of the Finance Centre. It now is clear from what the Minister has just said, that not only is the Income Tax Ordinance going to be the subject of Change by Regulation but that an increasingly number of the legislation is going to be dealt with in the same manner. The policy is generally to have more power going to the Executive and less power to the House of Assembly. I, as a matter of principle, do not think that is the correct way unless the whole system requires to be changed. I for one am on record already as having said that the system in Gibraltar needs changing. But what I am not prepared to accept Sir, is that whilst the House of Assembly, which has legislative powers, should willy nilly give up those powers to respond to what may be a requirement that Gibraltar now faces.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE EXPLOSIVES (AMENDMENT) ORDINANCE 1989

HON ATTORNEY-GENERAL:

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

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

SECOND READING

ECN ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the main purpose of the Bill is to increase the penalty for throwing or discharging fireworks in the street or other public place from a fine of £5 to a fine of £500 and Clause 2(B) of the Bill achieves this purpose. The opportunity has been taken Mr Speaker, to increase the fines payable for a breach of Regulations made under Section 4, 5 and 6 of the Ordinance from a fine of £200 to a fine of £2000. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we support the measure, we take the view however that just increasing the fines in itself is not likely to be sufficient. Enforcement is a key requirement in this respect. We noted last year that there was an improvement in the coordination between the Fire Service and the Police, particularly on November 5th, but it is not just on November 5th that fireworks are set off in Gibraltar, there is also the Christmas and New Year Festivities, and as I say, I hope that the Police and the Fire Service will be able to be effective in policing the matter later on this year before we have a tragedy that we may all have to live to lament. But we support the measure, Mr Speaker.

MR SPEAKER:

If no other Member wishes to speak on the Bill, I will ask the Mover to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, on the last point just made by the Leader of the Opposition I did say in the answer to Question No.44 of 1989, that the Police, the Customs, the Fire Service and several other bodies were very conscious of the problems that arose on 5th November last year as well as whenever fireworks are to be discharged in Gibraltar and no doubt the Police, the Customs, the Fire Service will be very alert to prevent any sort of serious accident as occurred last November.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE PUBLIC HEALTH (AMENDMENT) (NO.2) ORDINANCE 1989

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The Bill refers in relation to dwelling houses the application of the increase in rates that would have come into effect on 1st July as a result of the new Valuation List. The Valuation List originally was scheduled to come into effect on 1st April and legislation was brought to this House to alter the date to 1st July. The measure does not affect commercial premises which will continue to be rated according to the Valuation List as already published. Sir, I commend the bill to the House.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Mr Speaker, we note that the Bill takes away the liability for increases to rates for domestic premises and those would concern the retrospective effects of the Bill to the 1st July. We assume that the reason for this is that under the present law, rates should in fact be charged to domestic premises at the increased rate and the amendment in this House is necessary to cure the breach of the law that technically the Government is now involved in. If our understanding is in fact correct Sir, well then we have no difficulty with correcting it and we are glad it has come to the House and the matter has been regularised.

HON CHIEF MINISTER:

Mr Speaker, the situation is that the AACR Administration took action before the last election to bring in an increase in rates which would have been effective on the 1st April this year for domestic premises, bringing about the impact on rates of their increase in rents of 1984/85. In fact we objected at the time publicly to the Government introducing an increase which would have effect after

the general election. The first action that we took was that we decided to defer the implementation of that change until the 1st July this year because we were looking at the situation of reforming the tax system to bring the collection of rates from the Government's Fiscal Year, which is from April to March, to the Government's Tax Year which is from July to June. As I have already explained, when I moved the amendment to the Income Tax Ordinance, in the case of the sale of shares which we legislated in April last year and then found out that it was not possible to give effective legislation because of the time that it took to get the necessary requirements drafted and produced. This was longer than what we had given ourselves and in this situation we found ourselves in exactly the same position. The possibility of a uniform collection system being introduced so that it is a more efficient way of collecting revenue and less money is spent in collecting and which is a fundamental element in Fiscal policy, as I mentioned already in the Income Tax Ordinance, it does not make sense to have a system of collecting revenue if you are to spend a lot of that revenue in its collection. In order to rationalise the Government system, we decided to bring it in for July but we are not in a position to carry out any changes for July and therefore what we have done is to say, since we are not in a position to do anything about it for July and we do not agree with the increase that was introduced by the previous Government, we are leaving the date of implementation open so that it can be brought in when we are ready. Otherwise it would mean that everytime we put a new date if we are not ready by that date we then have to bring in a new piece of legislation to change the date again. So this effectively means that the increase that would have come in April has been deferred already once by changing the valuation year to July as opposed to April, and it is now being deferred indefinitely to bring it into line with any changes that we may bring into the Income Tax Ordinance.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE BUILDING SOCIETIES (AMENDMENT) ORDINANCE 1989

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance

to amend the Building Societies Ordinance be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The object of this Bill Mr Speaker, is to enable Building Societies to make loans and investments in the European Economic Community. As the Ordinance stands, permission is needed for the purpose but given the freedom that there should be for capital movement between Member States and the opportunities that this would open to local Building Societies, the Government believes that the control should be relaxed so that our societies may participate in the larger market which the Community comprises. The Government will of course continue to monitor the situation to ensure the propriety of such loans and investments, in the absence of proper regulation over the activities of Building Societies, work on which is expected to commence shortly. In the meantime, permission will still be needed by local Building Societies to maintain offices outside Gibraltar or to advertise or solicit for subscriptions deposits or loans outside Gibraltar. Sir, I beg to move.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Sir, we support the Bill, the only point that arises, I think, is the one that has been alluded to by the Honourable Financial Secretary and which is the actual regulation of the Building Societies locally established if they do external business and I do not know what the proposals are Sir, but I would assume that the element of safeguards required in general terms of liquidity and ratios, might require amendment. If that is correct Sir, could the Financial Secretary indicate what the Government policy is? If there is a firm Government policy on how we would regard such ratios and safeguards or whether there is to be a case by case analysis of any particular Building Society that might wish to in fact lend abroad. But I think it is important bearing in mind the importance that Gibraltar gives to proper financial regulations. The positive moves that we are making in that direction to open up even a small chink in the armour, unless there is a lot of benefit it might be unwise especially bearing

in mind that the overall proper regulation of Building Societies will no doubt be forthcoming in the next few months.

HON CHIEF MINISTER:

Mr Speaker, the position is that there are two Building Societies active in Gibraltar, one that has seen little growth for a very long time and others are in the process of liquidation and disappearing and the control really comes in allowing the Societies to get established in the first place, as far as the Government is concerned. The Government decided to move on this immediately because it inherited a ridiculous situation, where a number of United Kingdom Building Societies wanted to come in and had expressed an interest to come in and I am sure the Honourable Member is familiar with some of them, since it is the Chambers in which he works that has been writing to us about this, and in fact they were being told that they could not operate in Gibraltar other than to lend on Gibraltar property. They had however been told in UK that they could operate in Gibraltar to lend on everything except Gibraltar property. So in fact a UK Building Society found itself in a situation where what it was allowed to do by the Building Societies Act in UK was what we prohibited and what it was allowed to do by the Building Societies Ordinance in Gibraltar was what the United Kingdom prohibited. In order to overcome this, it required a Section 14 Order under the Act to allow the Societies from the United Kingdom to lend on the security of property in Gibraltar. Such orders have been made in respect of Jersey, Guernsey and the Isle of Man but they were never made in respect of Gibraltar. The correspondence that there was between Gibraltar and the United Kingdom kept on referring to the requirement on the part of the Government of Gibraltar that any Building Society coming in should, in fact, be able to lend on Gibraltar property because otherwise it would be taking money out of the local economy and into external lending. This is a nonsense when you are talking about a modern Financial Center operating on a world scale. Of the fl.2billion we have got in our system, a very very small proportion gets re-invested in the Gibraltar economy. So we are talking about a situation where there is already millions going in and out of our economy, and the more millions that go in and out the better it is for us. So we looked at the history of this and it appears to us that going back for 5 years there has been a repetition between the United Kingdom and Gibraltar of the same argument with neither side making a move. Therefore what we decided to do was contact the Building Societies Commission in the UK and discuss the matter with them. This I did in my last visit to the United Kingdom. I have also raised the matter on two occasions with Mrs Chalker, in my last meeting with her and in my first meeting

in May 1988, and I have been promised swift action but nothing has happened. So at the moment what is preventing a UK Building Society from coming into Gibraltar is our law.

HON P C MONTEGRIFFO:

If the Hon Member will give way. I accept the Chief Minister's explanation, but it is not the point that I am addressing. I accept entirely that we need to cure the legislation to allow Building Societies to come, but that is not the point Sir. The danger is that in allowing them to set up in Gibraltar under the present legislation, in the absence of a supervisory framework for the Building Societies, we are in fact opening up a problem which is not here at present. Of course we would like UK Building Societies lending to Gibraltarians in the local market, but the main reason that Gibraltar has not been able to do that, apart from what this technical amendment would allow them to do, ie "please come" is that nobody says "please come and we will regulate as opposed to the UK", I assume that that is the case and the Financial Secretary will confirm this. I assume that if UK Building Societies sets up in Gibraltar and does not lend here then there is no element of regulation in Gibraltar, although, there is certainly at the moment that you have the legislation, Mr Speaker, then that actually permits the introduction of the UK Building Societies into Gibraltar and I would have thought that Gibraltar effectively is saying you are authorised to come in and we therefore implicitly accept a supervisory role" and all I am saying, Sir, is that if the Government's policy is to accept only "Blue chip" big Building Societies where we are prepared to take the political risk that nothing is going to go wrong then I assume that that is fair enough. But I am concerned only that the Chief Minister should address that fact that if we remain for too long with the Supervisory legislation there is then if not a hole at least a little chink in our armour on the whole regulation that should be in place.

HON CHIEF MINISTER:

No Mr Speaker, I do not accept his argument. I think the Hon Member has got it all wrong. First of all, Mr Speaker, the AACR already amended the Building Societies Ordinance to allow UK Building Societies to open branches in Gibraltar. That has already been done. We are not doing that now. The only thing is that the law says "a Branch can open in Gibraltar provided they lend to Gibraltar properties" and the UK says "a Branch can open in Gibraltar provided they do not lend". There is a contradiction in our law and we are removing it. We are not allowing Building Societies in for the first time, they are already allowed in. If the United Kingdom tomorrow made a Section 14 Order, Building Societies will be able to open Branches in Gibraltar without us doing anything and without these

amendments. What we are doing is removing the blockage that has existed for five years, ever since the legislation was brought to the House by the AACR. It was brought here and supported by me, I can tell the Honourable Member, from that side of the House on the argument that this legislation was a good thing because it would enable Abbey National and other UK Building Societies to enter into the local market and I thought that it was a very good idea. However it did not transpire because having created the permissive legislation nothing happened because the UK Building Societies Commission would not allow it to happen. Therefore what we are doing is removing the blockage to allow this matter to take effect and which is what the AACR announced they wished to do in 1985 and which still has not happened in 1989. So his arguments does not hold water because it is not that we are opening a door, the door was already open but there was a barrier in front of it and we are removing that barrier because it is nonsense that a barrier should be there. The second thing is, of course, something which the Honourable Member must be aware of what is happening in Europe in Financial Services and the direction in which we are moving. That direction is, that there is going to be Single European Licences for Banks in 1992 and that sooner or later there will be Single European Licences for other quasi-bank Organisations. And Building Societies already have got very wide powers in UK to act virtually as Banks. They have current accounts, they have cash dispensers, they are Banks in everything except name. In fact one of them has just converted itself into a Bank and became a Limited Company.

HON P C MONTEGRIFFO:

Are the same control of Gibraltar Building Societies in existence as with banks is that what the Hon Chief Minister is saying?

HON CHIEF MINISTER:

Mr Speaker, if the Honourable Member sits down and shuts up I will inform him.

HON P C MONTEGRIFFO:

I do not want to be talked to in that way, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I have not given way and the man is out of order. What I am telling him, Mr Speaker, if he will listen, is that in 1992 whether we have controls or we do not have the controls is totally irrelevant because a Society or a Bank licenced in its home state does not require a second licence in its host state. So therefore what we have to make sure is that we have the controls

for Societies that are created in Gibraltar for the first time. Because those Societies with the authorisation granted by the Government of Gibraltar will be able to operate in other places on the strength of a piece of paper we give them. Therefore we must make sure that our standards are good enough, but we are moving into a situation where the problem is becoming easier not more difficult. Because for example, banks in Gibraltar that have got Gibraltar licences and the bulk of them are already community banks and if we were already operating under the Fourth Banking Directive then none of them would be licensed in Gibraltar. They would all be able to operate in Gibraltar on the basis of their existing licence from their home state. The Nat West Branch or the Barclays Bank Branch would be a branch of a licensed Bank, licensed by UK and the Authority responsible for monitoring them for liquidity ratios, for proper reserves and for everything else would be the originating licence issuing authority ie the Bank of England and not us. Now this is bound to happen with Building Societies in 1992 or after 1992. Because there is no way you are going to have a situation, in the European Community, where you have got two organisations giving equal range of services to customers in banking, one of which is subject to one set of controls and the other is not subject to that set of controls. So the position is that the fears expressed by the Member are totally irrelevant because we are not going to need to worry about United Kingdom Building Societies or United Kingdom Banks or Community Building Societies or Community Banks. We are going to need to worry about the Building Societies or the Banks that are incorporated in Gibraltar, either by non-Community sources ie people coming from Japan or the United States or whatever or from Gibraltar sources. If Gibraltarians want to set up a new Building Society then we must make sure that that Society is properly controlled because if that Society is lending outside Gibraltar and something goes wrong, then it will come back to us. Therefore the country where something goes wrong will come back and say to the Gibraltar Government "why did you licence so and so if they are not a fit and proper organisation to be doing business?" But what we are doing here is not that, all those fears expressed by the Member already apply or do not apply with this change. This change does one thing and one thing only, it enables United Kingdom Building Societies to come into Gibraltar and which at the moment we are preventing. The only thing stopping them coming in is us because for the last four years they have been seeking the introduction of a Section 14 Notice and what we have said to the representatives of the Societies that have approached the Government is "Go back to the Society and tell them that we are still pushing, all the time, for the Section 14 Notice because we want them to come in and we are anxious to welcome them into Gibraltar we ourselves are moving unilaterally in anticipation of the Section 14 Notice, so that they can come in tomorrow

if they want to and operate in Gibraltar and lend from Gibraltar into the Community". They will still not be able to lend in Gibraltar because the UK will not allow them. The ridiculous situation is that because of this constant problem that we have of definition of our relationship with the United Kingdom, a UK Building Society can lend in Spain but it cannot lend in Gibraltar. This is because it can lend anywhere in the Community without a Section 14 Notice but it requires a Section 14 Notice for Gibraltar because it requires it for the Isle of Man, for Jersey and for Guernsey, so in this particular instance we have been bracketed as being a non-Community territory instead of a Community territory. We are convinced that this will help the United Kingdom Building Societies to come in and therefore the arguments that have been used about this are totally irrelevant to the legislation we are bringing and if they have got any validity they apply to the existing legislation which is the one that was there when we came into office.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, there are a number of points that need to be clarified. The first one is that in relation to what has been said with regard to Building Societies from the UK wanting to establish themselves in Gibraltar, the position is that if they do, regardless of the fact that a Section 14 Order is needed, those Societies would not be able to lend outside Gibraltar by virtue of Section 42 of the Ordinance, which says "that insofar as that portion of their business carried on in Gibraltar is concerned, the requirements of the legislation will apply" and the requirements as it stands at the moment is that investments lending should only be in Gibraltar. Therefore the measure before the House opens the way for them to invest via Gibraltar in other EEC territories. The second point is that although authorisation is not needed to establish or commence a Building Society in Gibraltar, the Government nevertheless is monitoring the situation and immediately comes to grips with any Society which is established, pending amendment to the Building Societies Ordinance itself, which has to be substantial to take account not only of our local requirements but also of the First Banking Directive of the EEC and subsequent Directives which will verge on matters of solvency ratios. In the meantime what the Government is doing is having returns from Societies that are established, looking at their ratios and lending, to ensure their viability remains.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE STAMP DUTIES (AMENDMENT) ORDINANCE 1989

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of the Bill is to expressly exempt Certificates of Deposits from Stamp Duties, thereby removing the doubt that there is at the moment on the matter. Certificates of Deposit made in simple terms may be defined as Certificates issued by Banks acknowledging that a sum of money has been deposited with them for a fixed period of time. The Certificates are negotiable and payable to bearer, titled to them and can be passed freely from one person to another by delivery of the Certificate. They are basically money market instruments akin to Bank Promissory Notes which are exempt from Stamp Duty by virtue of Section 29 of the Ordinance if they each entitle their bearers or holders to the payment of sums exceeding £100. Certificates however may also be regarded as marketable securities, since they are traded in secondary markets and as such may be considered liable to Stamp Duty as the result of the all catching definition of marketable securities in Section 70 of the Ordinance. The intended amendment by Clause 2 of the Bill, Mr Speaker, is to make it explicit that Certificates of Deposits are excluded from the definition of marketable securities and not therefore subject to Stamp Duty. They are not mentioned or covered anywhere else in the Ordinance. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Just to say, Mr Speaker, that we support the Bill.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE 1989

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The object of the Bill Mr Speaker, is to remove the present restrictions relating to transit goods and transshipment of goods which have become obsolete and to bring Gibraltar into line with modern practice in other countries. At present dutiable goods brought into Gibraltar and marked in-transit, are deemed not to have been imported and hence not liable to duty if inter-alia the final destination is identified by the consignor before the goods arrive in Gibraltar and the goods are removed from Gibraltar within fourteen days from arrival. These requirements are now outdated and in fact cannot be applied to certain categories of import which arrive in transit. Accordingly the measure before the House seeks to alter the situation so that to qualify for in-transit treatment, it will no longer be necessary for a final destination of the goods to be identified before arrival, nor for their removal within fourteen days. The change with the consequential increase in throughput expected will no doubt enhance Gibraltar's reputation as a transit and transshipment port. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, during the years when I was Minister with responsibility for the Port, we were very anxious to do everything that we could to promote Gibraltar as a transit or transshipment Port and therefore we have no hesitation in welcoming this piece of legislation and voting in favour.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I thank the Opposition for their support.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1989/90) 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 1990 be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

MR SPEAKER:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

MR SPEAKER:

Does the Leader of the Opposition object to our taking, I think it was the Public Utilities Undertaking Amendments Bill together with all the others?

HON A J CANEPA:

No, Mr Speaker.

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 Income Tax (Amendment)(No.2) Bill, 1989; The Landlord and Tenant (Amendment) Bill, 1989; The Traffic (Amendment)(No.2) Bill, 1989; The Public Utility Undertaking (Amendment) Bill, 1989; The Gibraltar Broadcasting Corporation (Amendment) Bill, 1989; The Drugs (Misuse) (Amendment) Bill, 1989; The Employment (Amendment) Bill, 1989; The Criminal Procedure (Amendment) Bill, 1989; The Trusts (Recognition) Bill, 1989; The Explosives (Amendment) Bill, 1989; The Public Health (Amendment)(No.2) bill, 1989; The Building Societies (Amendment) Bill, 1989; The Stamp Duties (Amendment) bill, 1989; The Imports and Exports (Amendment) Bill, 1989 and The Supplementary Appropriation (1989/90) Bill, 1989.

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

COMMITTEE STAGE

THE INCOME TAX (AMENDMENT) (NO 2) BILL, 1989

Clauses 1 to 5

On a vote being taken on clauses 1 to 5 the following Hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon R Mor
The Hon J L Moss

The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon J E Pilcher
The Hon J H Bautista
The Hon E Thistlethwaite

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

Clauses 1 to 5 stood part of the Bill.

The Long Title

HON A J CANEPA:

Mr Chairman, for the last seventeen years I have been waiting for an opportunity to vote against the Long Title of the Bill, and we do so now.

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

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

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 Long Title stood part of the Bill.

THE LANDLORD AND TENANT (AMENDMENT) BILL, 1989

Clauses 1 to 6

On a vote being taken on clauses 1 to 6 the following Hon Members voted in favour:

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

Clauses 1 to 6 stood part of the Bill.

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

THE TRAFFIC (AMENDMENT) (NO 2) BILL, 1989

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

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

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) BILL, 1989

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

Clause 2

On a vote being taken on Clause 2 the following Hon Members voted in favour:

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

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

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

Clause 3

HON A J CANEPA:

Mr Speaker, we have an amendment, a very small amendment that we would like to move to Clause 3, and that is to insert the word 'fuel' after the word 'flexible' and before the word 'costs' where it so appears in the Clause. So that it would be 'flexible fuel costs adjustment formula' in line with what the Minister explained when he exercised his right to reply. In line with what the Honourable Minister has said that the intention was to more accurately reflect the proportion or the weighting of lighter fuel as against heavier fuel arising from the changes in power generation in future, the Government, he explained was bringing this legislation to the House. He gave us to understand that there was no intention to include anything else such as costs of spares and/or wages or any other cost and in the light of that I would have thought that the intention of a fuel cost adjustment formula could still be maintained whilst introducing the element of greater flexibility, and I would hope therefore that the Governemnt could propose the small amendment.

HON J C PEREZ:

Mr Speaker, although the Honourable Member is right, in that that is the intention of the Government and I think that would be the only thing that would happen in the foreseeable future, I think that we shall be voting against the amendment, so that the Ordinance itself can have flexibility to change this in the future, if it is needed. It is not intended that this should change in the future but if it ever does, the flexibility will be there in the Ordinance for this to happen. Honourable Members opposite will be able to make their views known at the time when that is changed but I do not think that we will gain anything by including the word 'fuel' and restricting the powers of the Ordinance for the future.

Mr Speaker then put the question in the terms of the Hon A J Canepa's amendment and the following Hon Members voted in favour:

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 Members voted against:

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

The amendment was accordingly defeated.

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

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

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

Clause 3 stood part of the Bill.

Clauses 4 and 5

On a vote being taken on Clauses 4 and 5 the following Hon Members voted in favour:

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

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

Clause 4 and 5 stood part of the Bill.

The Long Title

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 R Mor
The Hon J L Moss
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon J E Pilcher
The Hon J H Bautista
The Hon E Thistlethwaite

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 Long Title stood part of the Bill.

THE GIBRALTAR BROADCASTING CORPORATION (AMENDMENT) BILL, 1989

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

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

THE EMPLOYMENT (AMENDMENT) BILL, 1989

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

The Schedule

HON R MOR:

I would like to move an amendment. Actually just a couple of printing errors. In Section 52C on the third line, where it reads from the previous line "for the same work", it should read "or for work to which equal value is attributed".

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

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

THE DRUGS (MISUSE) (AMENDMENT) BILL, 1989

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

Clause 2

HON M K FEATHERSTONE:

I would like to move the following amendment. I beg to move that the weight of controlled drugs should be reduced as follows: amphetamines 5 grams; cannabino1 1 gram; cannabis resin 1 gram; cannabis 15 grams; cocaine 1 gram; diomorphine 1 gram; LSD 0.5 of a gram.

Mr Speaker proposed the question in the terms of the Hon M K Featherstone's amendment.

HON J L BALDACHINO:

Just out of curiosity on what is the reduction that the Honourable Member is proposing based, or it is just.....

HON K M FEATHERSTONE:

Well, if you know for example amphetamines 5 grams will be approximately ten tablets. At the moment 15 grams is thirty tablets. It is quite a large quantity, so 5 grams ie ten tablets would be for your own use. And 3 grams again is a reasonably large quantity of such items as cocaine or heroin. As for lysergic acid, this is usually dispensed in micro-drops which have a weight of perhaps .005 of a gram. With 3 grams you could have quite an acid party. This is the idea behind the reduction.

HON J C PEREZ:

Mr Chairman, anything that reduces the amounts is supported by this side of the House. What I think we ought to make sure is that we are not doing anything which goes against any expert advice that we might have. What we cannot do is come back to the House and then change it again. With all due respect to the Honourable Member with his record in Government I am not very sure that he is doing the right thing although I am prepared to support it. It is just that as my Honourable colleague, the Honourable Mr Baldachino was saying, what are we basing this on? We both agree that it is too high, as it was introduced, on the advice of different organisations in Government, but I would be a bit reluctant without knowing on what it is based or without having any expert advice to go ahead.

HON A J CANEPA:

The time of my Honourable Colleague in Government is a fairly lengthy one, longer than anybody here, other than myself. He has been a Minister for Medical Services for quite some years and professionally he is also a Chemist and that is why he is able to give an assessment based on some degree of professional knowledge.

HON ATTORNEY-GENERAL:

Without wishing to contradict that, Mr Chairman, I have the list of these drugs in Australia and I have also got the Hong Kong one. They are not too far out from the Honourable Mr Featherstone's figures, except in relation to amphetamines which is two grams in Australia, cannabind was two grams, resin is 20 grams, cocain is 2 grams, diamorphine is two grams and LSD is, as the Honourable Mr Featherstone said 0.0002 grams.

HON A J CANEPA:

So my Honourable Colleague has a track record in line with that of Bob Hawke.

HON J C PEREZ:

I am afraid both you and the Honourable Attorney General are wrong. It does not come anywhere near to what there is in Australia.

HON ATTORNEY-GENERAL:

If the Honourable Mover of the amendment would read the Australian figures despite being a long way away perhaps that would be the basis.

HON M K FEATHERSTONE:

I think that would be acceptable.

HON A J CANEPA:

Provided that if they do not actually win the ashes today we may bring back an amendment!

MR SPEAKER:

So what is the position, are we going to follow Australia?

HON ATTORNEY-GENERAL:

We are going to follow Australia, Mr Chairman, yes.

HON M K FEATHERSTONE:

Amphetamine - 2 grams; cannabiol (except where contained in cannabis or cannabis resin) - 2 grams; cannibol derivates - 2 grams; cannabis or cannabis resin - 20 grams; cocaine - 2 grams; diamorphine - 2 grams; LSD - 0.002 grams.

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

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

THE CRIMINAL PROCEDURE (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 TRUSTS (RECOGNITION) BILL, 1989

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

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

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

THE EXPLOSIVES (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 PUBLIC HEALTH (AMENDMENT)(NO 2) BILL, 1989

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

New Clause 3

HON ATTORNEY-GENERAL:

I beg to move that the Bill be amended to add a further Clause to be numbered Clause 3, as follows:

Amendment of Section 218 3. Section 218(1)(B) of the Public Health Ordinance is amended by inserting immediately after the words "certain areas" the words "as defined in such rules".

The purpose of this amendment Mr Chairman, is to enable rules to be made which will replace the seaside pleasure boat rules. This amendment, Mr Chairman, amends Section 218(1)(B), so that it reads as follows "The Governor may, for the prevention of danger, obstruction or annoyance to boats at anchor or to persons bathing in the sea or using the seashore, make rules - prohibiting the entry by pleasure boats and any person or thing in tow behind such vessels into certain areas" as defined in such Rules. As I have said, Mr Chairman, the amendment will enable the Government to promulgate new seaside pleasure boat rules to replace the existing rules which the Stipendiary Magistrate declared to be ultra vires, because neither the Ordinance nor the Seaside Pleasure Boat Rules define the areas to be protected and this amendment will enable the areas to be protected to be defined in the Rules and that is the purpose of the amendment, Mr Chairman, and I commend it to the House.

HON A J CANEPA:

We seem to be able to support this amendment, it does not seem to interfere either with the seaside or with pleasure, so we can go along with it.

Mr Speaker then put the question which was resolved in the affirmative and Clause 3 was agreed to and stood part of the Bill.

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

THE BUILDING SOCIETIES (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 STAMP DUTIES (AMENDMENT) BILL, 1989

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Clause 2 be deleted and a new Clause 2 be inserted. To renumber Clause 2 as Clause 3 and that a new Clause 4 be inserted.

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 R Mor
The Hon J L Moss
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon J E Pilcher
The Hon J H Bautista
The Hon E Thistlethwaite

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

New Clause 2 stood part of the Bill.

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

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

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1989

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

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

THE SUPPLEMENTARY APPROPRIATION (1989/90) BILL, 1989

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

MR CHAIRMAN:

Before we carry on with Clause 2 does the Opposition wish to say anything on the Schedule?

HON A J CANEPA:

Most of these are revotes, Mr Chairman, except 2, could we have some details, some indication as to, very briefly, the terms of the loan to the Pilot Boots Association? This is nothing new, there are precedents where the Government has assisted the Pilots by similar loans, similar amounts. Anyhow, I wonder whether we could have very briefly an indication of what the terms are, if they are very much in line with previous terms then there is no problem. And the other thing that surprises me somewhat is that, I think for the first time ever, the House is being asked to vote a contribution to the Commonwealth Fund for Technical Cooperation. Normally in the past, we have had a lot of assistance from the United Kingdom technical cooperation, but this seems to be something new, perhaps we could have an explanation.

HON CHIEF MINISTER:

Mr Chairman, on the question of the Port, the position is that we offered the Pilots an identical loan on identical terms to the last one they had, which they have accepted. On the question of the Commonwealth Fund for Technical Cooperation, I have already given an explanation. I gave an explanation when I returned from UK and I made a reference to that as well in the course of my answer to the Honourable Col Britto, when I explained that we had discovered that we were apparently the only place in the Commonwealth that had never made use of the Commonwealth Fund for Technical Cooperation. One of the conditions attached to making use of the Fund, is that you become a Member and that you contribute. The contribution is a voluntary contribution and it is left to the discretion of the Member State or the Dependent Territory. This, I think, was set up in 1971 or 1973, the Commonwealth Fund for Technical Cooperation. The main contributor is Canada which pays for something like 50% of the budget. It has a total budget of about £20m and the position is that each State that takes up membership is expected to pay a membership fee which is related to their size and which they are then expected to keep under review depending on how much use they make of it. We discovered, as I mentioned when I came back, in the press conference that I gave, that in fact some of the territories in the Mediterranean like Malta and Cyprus have been using the Commonwealth Fund for Technical Cooperation to help them in setting up their Finance Centre in competition with ours. So we believe that we can get very good value for this sum of money but we certainly cannot belong to the Commonwealth Fund without becoming Members and paying a Membership fee. We think that a Membership fee of £4,000 is a reasonable figure in relation to our size of economy. I think the smallest contributor is St Helena and they pay a £500 membership fee. St Helena of course has a much, much smaller population and a much, much smaller economy than we have. From our soundings this was considered to be a modest sum for a start and we are

THIRD READING

HON ATTORNEY-GENERAL:

expecting, as soon as the Membership goes through, to get a team coming out to look at a number of areas where they might be able to give us technical help. This type of help includes them paying all the costs involved for the experts' passages and their stay in Gibraltar. They are normally short-term assignments, something like three months or six months. In fact in the case of Malta, they have actually agreed to provide people to set up their Financial Services Industry on a two year secondment period with all the costs being met by the Commonwealth Fund. So the explanation is that since we have never contributed before and we have never been able to use it before and it appears that we are the only ones in the Commonwealth that have never used it.

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

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

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

Mr Speaker, I have the honour to report that: The Income Tax (Amendment) (No.2) Bill, 1989; the Landlord and Tenant (Amendment) Bill, 1989; the Traffic (Amendment) (No.2) Bill, 1989; the Public Utility Undertakings (Amendment) Bill, 1989; the Gibraltar Broadcasting Corporation (Amendment) Bill, 1989; the Drugs (Misuse) (Amendment) Bill, 1989, with amendments; the Employment (Amendment) Bill, 1989; the Criminal Procedure (Amendment) Bill, 1989; the Trusts (Recognition) Bill, 1989; the Explosives (Amendment) Bill, 1989; the Public Health (Amendment) (No.2) Bill, 1989, with amendments; the Building Societies (Amendment) Bill, 1989; the Stamp Duties (Amendment) Bill, 1989, with amendments; the Imports and Exports (Amendment) Bill, 1989; and the Supplementary Appropriation (1989/90) Bill, 1989, 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 Landlord and Tenant (Amendment) Bill, 1989; the Traffic (Amendment) (No.2) Bill, 1989; the Gibraltar Broadcasting Corporation (Amendment) Bill, 1989; the Drugs (Misuse) (Amendment) Bill, 1989, with amendments; the Employment (Amendment) Bill, 1989; the Criminal Procedure (Amendment) Bill, 1989; the Trusts (Recognition) Bill, 1989; the Explosives (Amendment) Bill, 1989; the Public Health (Amendment) (No.2) Bill, 1989, with amendments; the Building Societies (Amendment) Bill, 1989; the Stamp Duties (Amendment) Bill, 1989, with amendments; the Imports and Exports (Amendment) Bill, 1989; and the Supplementary Appropriation (1989/90) Bill, 1989, the question was resolved in the affirmative.

On a vote being taken on the Income Tax (Amendment) (No. 2) Bill, 1989 and the Public Utility Undertakings (Amendment) Bill, 1989, the following Hon Members voted in favour:

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

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 Bills were read a third time and passed.

The House recessed at 1.10 p.m.

The House resumed at 3.40 p.m.

PRIVATE MEMBERS' MOTIONS

HON A J CANEPA:

Mr Speaker, I have the honour to move in the terms of the motion standing in my name that:-

“This House deplors the failure of the Government to safeguard the purchasing power of old age pensions and to make public details of their plans for the future of the Social Security Scheme”. Mr Speaker, it was in mid November last year that two things occurred within the space of a few days and which, effectively, underpin the two main points covered by this motion. In the first place, on Monday 11th November, the Minister for Labour and Social Security made certain disclosures to the Gibraltar Chronicle. A front page article appeared in the Chronicle of that date and the headline of which read “Means Testing Plan for Social Benefits”. I would maintain that this article and what was contained in it played

a very important part in sowing great doubts in the minds of people, pensioners, old age pensioners and contributors alike, in respect of the whole question of means testing and in the freezing of pensions which was referred to by Mr Mor in that article. Mr Mor said, and I quote from the article “that the time has come when the Government can no longer afford to give benefits to people who are already well off”. In that particular case of pensions, he cited the example of people who retire fairly early and then work again when they receive a pension. “We should give money to the people who need it most”, he is quoted as saying and then later on in that article on the 2nd page he made the reference to the freezing of pensions. This article amounts to a very large extent the only information which the public has about what the Government has in mind, other than the details of the agreement reached by the Chief Minister with Mrs Chalker, such details as were actually released later. Under that agreement the public learnt that Her Majesty’s Government would be footing the bill, on an interim basis, for the continued payment of Spanish pensions until the present Social Security Scheme is wound up and replaced by a new scheme. I will not call it a Social Security Scheme because it is not clear that it may be that in 1994. What will actually happen to pensioners or to those who become pensioners between now and then is not clear as far as the public is concerned. Nor is it clear what will happen to present contributors after 1994, i.e. those who will become pensioners after 1992. A few days later here in this House, at the meeting of the 15th November, the Social Security Insurance Ordinance was amended. By that amendment, the Statutory Formula introduced by the AACR in 1975, the legislation which was brought by myself to this House, was repealed. I would remind the House that that formula required on a Statutory basis, by law, that pensions should be increased every year in January in line with movement in average earnings on the basis of a pension for a married couple, a joint pension for a married couple having to be not less than half. The level of the average earnings for a full-time industrial as laid down in the latest available Employment Survey. The level of pension for a single person, which could be also a widow, should be not less than 33 1/3% of such average earnings. That formula was repealed here in this House and substituted by new provisions as follows: “The Minister shall at such time as shall seem to him appropriate review the sum specified in the following Sections”. In other words “The Minister shall at such time as in his discretion may seem to be appropriate, review the level of benefits and the sums being paid as old age pensions at the time which he may decide, whenever he deems it to be appropriate”. It is this, Mr Speaker, that has affected the purchasing power of pensions because if the Statutory Formula had not been repealed, pensions would have had to be increased in January last year. That Statutory Formula was repealed and removed. The Minister obtained

the powers that I have referred to and to date the Minister has not used those powers nor given any indication as to when such powers are likely to be used. In other words, there has been no indication from the Government as to when the level of benefits will be reviewed or when the next increase in old age pension will be forthcoming and therefore as time goes by the purchasing power of pensions which is totally at the discretion of the Minister, is being eroded. On the 5 December last year, the Chief Minister informed us that Her Majesty's Government had accepted the proposals put to them by the Chief Minister in the context of the problems of Spanish pensions and the agreement that I have referred to followed. As we moved towards the 1 January, and it became clear that the Government was not going to use the powers in the new Section of the Ordinance in order to increase pensions, pensioners started to wonder what was going to happen and they started to become increasingly worried about the terms of the agreement that had been reached. They wondered what exactly the new agreement meant for them and what was their future in this context of old age pensions. Aware of such concern, I drew attention to this in my end of year message on the 29 December 1988. I said that there was a great deal of concern and apprehension in town amongst present pensioners and contributors, who are the future pensioners, as to what exactly is going to happen over the next five years and after the next five years and just how they are going to be affected by these arrangements. I went on to say, and I quote "And it is not surprising that such worries to exist since the Government has not been sufficiently open and has not provided the information that people require if their fears are to be allayed". And Mr Speaker, even though we ourselves, in the Opposition had been given more information than the general public, I said that it was not clear to us, as it is not to this day seven months later, what the final outcome is going to be and exactly how pensioners are going to be affected. In his own New Year Message, on the 1 January, the Chief Minister had nothing to say that would allay the fears of pensioners. A Chief Minister, who on coming into office, had made a Ministerial Statement on television in which he had pointed out that this was the biggest cloud on the horizon where he had also indicated, if not promised, that he would be making frequent appearances on television to address the nation at three-monthly intervals. He had all sorts of excuses as to why he was not in a position to do so and why he has not done so. He has not made any similar appearances on television since that first one. In an effort to elicit some answers to the sort of questions that people were asking in the street, I tabled a series of questions in this House on the 24 January 1989 and I think I ought to quote them Mr Speaker, "Question No. 14 – Does the Government realise that because of lack of information, concern is being expressed by contributors to the effect that rather than contributing to the Social

Insurance Scheme over the years, they might have been better off by taking out a Life Insurance or Annuity Policy instead?" This Mr Speaker, is indicative of the lack of confidence in the scheme and of people beginning to wonder what has been the purpose of my contributing over all these years. "Question No. 41 – How does Government intend to safeguard the rights of current contributors to the Social Insurance Scheme in five years' time and beyond?" The sort of thing, Mr Speaker, that contributors were wondering then and are still wondering about what is going to happen with all the contributions that they have been making over the years. Also what is going to happen to the entitlement that they thought they had to an old age pension when they reached the age of 65 in the case of men and 60 in the case of women. "Question No. 42 – Having regard to the fact that old age pensions were not increased on the 1 January 1989, why has Government increased the weekly rate of contributions payable by insured persons and their employers?" Again as far as people are concerned they heard that their contributions had been increased and they felt this because of the weekly deductions that had been made from their pay packets. People were wondering how is it that contributions have been increased and yet nothing was happening about old age pensions when from time immemorial and certainly from 1975, this had been a yearly feature every January when contributions have gone up and benefits have gone up, usually by a much bigger amount. "Question No. 43 – Will the Government give an undertaking that the purchasing powers of the old age pensions payable to Gibraltar pensioners, that is, pensioners residing in Gibraltar, will be maintained at their January 1988 level?" In other words will the Government give an undertaking that at least they will take into account increases in the cost of living now running at close to 5% and increase the level of pensions so that at least they keep pace with such increases in the cost of living. The answer from the Chief Minister, Mr Speaker, to all these questions was in the negative. What the Chief Minister really did was to make an appeal to the general public for trust. That people should trust him, that he knew what he was on about and that no doubt they should continue to trust him for the next two years even though he keeps virtually dumb about the whole thing and gives very little evidence as to what that trust should be based on insofar as the subject under discussion is concerned. On the 7 March, my colleague, Mr Peter Montegriffo brought the matter up on television in a Party Political Broadcast. He referred to the uncertain future of pensions for Gibraltarians and I quote "Which we all still know very little about. Do you know what sort of pensions you are contributing for today?" he asked. Again, Mr Speaker, nearly five months later I could ask the same question to contributors "Do you know what is the sort of pension that you are contributing to? Do you know what you are going to get, if anything, when you reach the age of sixty five?" I myself went back to the charge in May also in a Party

Political Broadcast in the wake of a so-called Budget and during which the Chief Minister had once again failed to give any indication to pensioners as to what they might expect and as to when they might expect to have their pensions increased. This in spite of the provisions of £10m in the Social Assistance Fund. By then pensioners were beginning to feel badly let down, in particular, that their interests, they could already perceive were being sacrificed or had been sacrificed as part of the price which had to be paid following agreement which the Chief Minister had entered into with the British Government. I have brought the matter up here in this House during the debate on the Estimates of Expenditure and I also brought the matter up in my contribution during the debate on television between the Chief Minister and myself which followed. However throughout all these occasions the Chief Minister has pretended or preferred to pretend not to hear. He has simply refused to say if or when old age pensions are going to be increased. I posed the question then and I ask it again, "Does he intend to keep pensions frozen for the next few years, even though workers and Government pensioners continue to enjoy annual increases?" There is not a worker employed by Government who does not have the purchasing power of his wage or salary guaranteed in keeping with increased in the United Kingdom. There is not a former Government employee in receipt of a pension from the Government who does not every year in October, with three months of retrospectioin, get his pension increased in line with the cost of living. If the Government considers that these category of persons should be treated in this manner, I find it very difficult to accept that they are not prepared to increase pensions and protect the other categories of well deserving old age pensioners whose purchasing power of their pensions is being eroded as the cost of living goes up. Is it to be wondered that old age pensioners feel betrayed by Members opposite who promised them so much in order to obtain their votes. I last spoke in public in this vein, Mr Speaker, a couple of months ago at the AACR Conference at the beginning of June when I said and I repeat today that the Chief Minister had promised that not a single penny of Gibraltar money would go towards the payment of Spanish pensions. He said that throughout, prior to the general election, during the general election, subsequent to the general election and during the course of the negotiations he maintained that position. And whilst Britain certainly appeared to be footing the bill, it has now become clear that indirectly the people of Gibraltar, various categories of the people of Gibraltar, were paying the price for the agreement that was reached with the British Government. Because by having their pensions frozen, are not local pensioners being sacrificed as part of that deal? In deciding to wind up the Social Insurance Fund in 1994, are not the rights of pensioners and existing contributors being jeopardised? And I ask the Chief Minister and the Minister for Labour and Social

Security today, because the latter at least occasionally speaks to pensioners on the way to his office in The Haven, "are they not aware that possible hardship is being caused to this group of persons in our community?" Do they not know or care that some old age pensioners are totally dependent on their old age pension as their sole means of income?" "That living on their own they find it increasingly difficult to make ends meet?" Some, Mr Speaker, are not suffering hardship because they live with their children or are being helped by their children. "What is it going to take for the Government to make a move? What are they waiting for? Discontent exists, Mr Speaker, or does the Chief Minister want a more tangible demonstration of it before the Government acts on the need to safeguard the purchasing power of these pensions and increase them? Mr Speaker, earlier this month, on Tuesday 18th, a letter was published by the Gibraltar Chronicle. This letter had been sent by Mr John Byrne under the heading "Answers requested". Mr Speaker, let me read the first couple of paragraphs: "In these days of open Government, I venture to ask a couple of questions: We have been told often enough that the Spanish pension problem has been solved, what about Gibraltar pensions? Why are we paying towards a Social Insurance Service, a Social Insurance Fund, Social Security Fund that apparently will cease to exist? Is it true that each contributor to the Fund will receive a lump sum? If so, will it be taxed? If so, will the lump sum consist of our contributions plus interest earned at market rates? What will happen to those currently receiving pensions? These are just a few questions and I am certain that other people have many more". Mr Byrne then went on to ask what was wrong with our telephones and maybe that is why he has not had any answers. Mr Speaker, Mr Bynre was just voicing the feelings and the thoughts of very many people in our community. Mr Speaker, in the Piazza below this House there is a mini-parliament that regularly meets, particularly in the mornings. Although not this afternoon because it is rather warm and these pensioners who meet there regularly are asking precisely these same questions every day. Maybe the Government, now that they spend much more of their time in meetings in Government offices, do not have the contact with these people that they used to have when they were in Opposition. We on the contrary are now in the fortunate position that we do have such contact and therefore we know at first hand just how people feel and what they are thinking. The Government has a duty and a responsibility to answer these questions and not just hide behind and appeal for trust as the Chief Minister did last January. To sum up, Mr Speaker, we have a situation whereby old age pensions have been frozen since the 1 January 1988 as a result of the repeal of the formula introduced by the AACR in 1975. Instead the Minister for Labour and Social Security has discretionary powers but has not used them. I would say that probably because of the demands made by the British Government in the course of negotiations with the Chief Minister,

over the deal for the payment of Spanish pensions and which led to the clarion call of "not a penny to be paid by Gibraltar". I would however say, Mr Speaker, that indirectly Gibraltarians are paying and in fact, the Social Security Scheme that we have known over the years is being dismantled. At least our own three-year agreement with the British Government preserved the integrity of the Social Insurance Scheme and no payment was made in any shape or form by any category of persons in Gibraltar and we were able to continue to increase old age pensions every year at the beginning of the year. Contributors are paying the price. The price of uncertainty over the future, the shift of their contributions from the Social Insurance Fund to the Group Practice Medical Scheme in return for which they are not getting any tax relief and hence the fiasco over the codes that I referred to yesterday. Tax payers are paying the price to the tune of £10m of taxpayers money which is being put into the Social Assistance Fund and therefore the reason why the Government has ostensibly no room for manoeuvre in making tax cuts. The danger of hardship for pensioners is real and they simply cannot carry on wondering when, if ever, they are going to get an increase. The Government without a shadow of doubt is failing in its duty towards these people and questions continue to be asked by the public, the contributors, of where they stand. They need to know, Mr Speaker, where they stand if they are to make adequate provision for their old age before it is too late in 1992. For all these reasons, Mr Speaker, we deplore the failure of the Government to meet its obligations towards pensioners and contributors to the Social Insurance Scheme. Mr Speaker, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Honourable A J Canepa.

HON R MOR:

Mr Speaker, I think that rather than bringing this motion of deploring the failure of the Government to safeguard the purchasing power of Old Age Pensions, the Leader of the Opposition should have got things in their proper perspective and should have, in fact, put forward a motion congratulating the Government for the fact that Old Age Pensions are still being paid today. Because, Mr Speaker, had it not been for the action taken by this Government in protecting the interests of Gibraltar pensioners and of the Social Insurance Fund there would not be any payment of pensions at all today and the Social Insurance Fund would have been bankrupt as a result of the Spanish pensions problem. What this Government has done, Mr Speaker, is to ensure that payment of pensions has continued which at this point in time is far more important than protecting their purchasing power. Because quite obviously if there were no pensions there would not be any purchasing power at all for pensioners. So in answer to the Leader of

the Opposition's questions of what to say when pensioners approach him, he should tell them that they should be thankful to the GSLP Government for having protected their pensions. As I say, Mr Speaker, we need to put things in their proper perspective and in order to do this we need to go back in time and look at the reasons of why we now find ourselves in the present situation and see why we have this situation today. The reason is purely the sheer negligence and incompetence of the AACR. Now, Mr Speaker, if I may go back in time to the 10 December 1970, when the then Chief Minister of Gibraltar, a Major Bob Peliza, made a statement in this House of Assembly in connection with Spanish pensions. In that statement he was proposing to hand over £4m to the British Embassy in Madrid to be given to the Spaniards in order to settle the then liability to Spanish pensioners. Well, Mr Speaker, I think it shows what a wise Chief Minister we had at the time and it may well prove that he may go down in history as having also been a very good Speaker despite what others have said. This action, Mr Speaker, that Major Peliza was proposing at the time was very actively opposed by the then AACR Opposition and from the reports of those days, I was able to deduct that the then Leader of the Opposition, Sir Joshua Hassan, ranted and raved like Rumpustilskin at the prospect of handing over £4m to the Spaniards. But what has been the eventual result? The AACR were against handing over £4m and then we subsequently find in 1988 that Gibraltar has a liability of no less than £300m and which is the situation that we have inherited. But, Mr Speaker, all this could have been avoided if the AACR administration had been more efficient. Because in 1974 the AACR introduced an amendment to the Social Insurance Scheme in order to protect the Scheme from Spanish pensioners having access to revalued pensions. The way they did this was by introducing a clause, which said that in order to get a revalued pension a person must have made 104 contributions since 1970 or be a Resident of Gibraltar. Well, Mr Speaker, it was the latter part of this clause the Residency part that eventually gave access to the Spaniards to revalued pensions because as from the 1 January 1988 when Spain joined the European Community residence in Spain, as an EEC Member, meant residence in Gibraltar for the purposes of Contributory Schemes. Thus Gibraltar inherited the liability towards Spanish pensions. As I said, Mr Speaker, this was purely through the negligence and incompetence of the AACR. Because since the early 1980's at least it was clear that Spain would join the European Community and action could have been taken long before the 1 January 1986 in order to avoid the liability of Spanish pensions. Today everything would have continued normally and the position of Gibraltar pensions would have been adequately safeguarded if they had at some stage, long before 1986, withdrawn the clause which refers to residency of Gibraltar. So if under the Pension Scheme laws you would have had a situation where a person needed 104 contributions since 1970 in order to get a revalued pension then the whole

problem of the Spanish pensions would not have arisen and the position of the Gibraltar pensioners would have been completely safeguarded. Mr Speaker, I find it strange that the Honourable Leader of the Opposition should be so vehement in pursuing the interest of pensioners when in fact there is a group of elderly persons in Gibraltar who have always been denied an Old Age Pension. Mr Speaker, this is a group of elderly persons who were born before the 6 January 1910 and they are the oldest citizens of Gibraltar and they are still being denied the.....

HON A J CANEPA:

Mr Speaker, on a point of order. What is the relevance of that? I realise, Mr Speaker, that Social Security is a highly technical matter and it is not easy for those who may not know whether it is relevant or not. This motion does two things and what is the relevance of having a group of people who are not covered by the Social Insurance in this context or.....is it that he is trying to score political points?

HON CHIEF MINISTER:

Mr Speaker, if I may take up this point. The Honourable Member who is moving the motion has talked about the poorest members of our community and the poorest members of our community are the ones who are not in the Scheme at all because they were left out by the Hon Leader of the Opposition.

HON R MOR:

In any case, Mr Speaker, what I am doing Mr Speaker, in order to put the record straight and place things in their proper perspective I propose to move an amendment to the motion. The amendment is as follows: "(1) insert "AACR" before the word Government in line 1. (2) delete all the words after the word "the" in line 2 and (3) add the words "future of old-age pensioners by not introducing legislation in 1985 or earlier, to safeguard the Social Insurance Fund in keeping with the EEC law on a non-discriminatory basis, and welcomes the arrangements that have been reached by the present Government and Her Majesty's Government, which makes possible the continued payment of existing pensions and the development of alternatives for the future". Mr Speaker, I commend the amendment to the House.

Mr Speaker proposed the question in the terms of the Hon R Mor's amendment.

HON A J CANEPA:

Mr Speaker, on the amendment, the Honourable Mover of the amendment, the Minister for Labour and Social Security,

has said not a word in his contribution about my motion, not a word whatsoever, and therefore we are going to reply in kind. We have nothing to say on this amendment. It just surprises me, having regard to what he did say, that he has not introduced a further thought in his amendment, that pensioners should be thankful, as he said, for what they are getting.

HON CHIEF MINISTER:

I would like to support the amendment of my colleague the Minister for Labour and I am not surprised that the Leader of the Opposition says that none of the Members of the Opposition have anything to say on the amendment. No doubt they have been shamed into silence at being reminded of the hypocrisy that it requires to deplore the failure of the GSLP Government in respect of the Spanish pensions when they, in this House are on record, palpably for their failure to know how to handle what they themselves had created. I remember Mr Speaker, when we were six months away from the election and I asked the Government what was their plan to deal, never mind with the situation on that would be inherited at the end of a three-year agreement, but with the situation that would be created by their failure to even guarantee enough money for the three years, because as my Honourable colleague's amendment states they failed to act in time in 1985 to protect the Scheme. And the greatest failure of the Member opposite is that the Scheme to which he feels so emotionally attached to and which he undoubtedly helped to create, he has also helped to destroy through his incompetence when the time came. I do not think he did it deliberately because I do not think he wanted to destroy the Social Insurance Scheme but he definitely did it and he carries the full responsibility for it. We have been left with the thankless task of picking up the pieces and therefore the amendment correctly points to the failure of the AACR administration to act in time and there is in addition another failure and that is when on the eve of the Accession of Spain to the EEC, because in fact, of course the agreement to pay revalued pensions, as we all know, was part and parcel of the Brussels Process and as we all know because the Honourable Member himself has said so in this House, he and Sir Joshua Hassan were totally shocked when Sir Geoffrey Howe suddenly announced that revalued Spanish Pensions were going to be paid in 1986. This was something on which they had not been consulted but it is on record in Hansard that he has said that here. And what did they do when that happened, they did what they have always done, Mr Speaker, they looked after their own skins because that is all the AACR have ever done. They have never cared about pensioners or the people of Gibraltar or the future of this place. They just care about No.1 ie themselves and that is the entire history. This is why the AACR is such a cancer in our community. They said to themselves "I must protect....."

HON P C MONTEGRIFFO:

If the Hon Member will give way.

HON CHIEF MINISTER:

No, I am not giving way. The Hon Member has got instructions from his Leader not to talk at this stage and I would not want him disobeying his Leader. There is already enough of a challenge to his leadership of the AACR without me giving the Hon Member more opportunities to challenge it.

HON P C MONTEGRIFFO:

If he allows me.

HON CHIEF MINISTER:

No, I will not allow him. As I was saying, Mr Speaker, this is why the only way we are really going to put Gibraltar on the road to sanity is to rid ourselves of all the relics we have inherited from past AACR administrations. When the AACR announced its deal with the British Government in this House and they said the British Government was going to provide £xm over the next three years I said to them "What happens if the money runs out before the three years?" And the Leader of the Opposition said "Well we will go back and talk with the British Government". And then in 1987, six months before the election, when the money was clearly running out, I said to him "What does the AACR propose to do if they get re-elected?". And he said "Well that is something that will have to be studied by whoever gets re-elected". Of course by then they were fairly confident of not having to face the problem that they had created. The situation therefore was that we came into office and we were faced with an additional failure on the part of the AACR. They had offered to use £1m of Gibraltar taxpayers money to pay Spanish pensions and the Member opposite had said that this was the most they were prepared to pay. Mr Speaker, as my colleague pointed out at the time even a child knows that if you are involved in a negotiation then the last thing you do is announce what is the most you are prepared to pay because immediately the most you are prepared to pay becomes the least you will have to pay. This is however a reflection of the AACR's poor negotiating skills and which has also been an influencing factor in their failures in the past. So we have a situation, Mr Speaker, where the Member opposite, in analysing how pensions are financed, states that we are punishing taxpayers because we are taking money from them and we are punishing pensioners because we are not giving money to the pensioners and I ask, Mr Speaker, where does he think the money comes from? Does he not realise, after sixteen years in Government, that all the money that is

paid to one group of people in a social system comes from another group of people? That they are what is known as transfer payments and what you do is you raise the money from workers or from taxpayers or from whoever and you pay it to another group. If he has not learnt that in sixteen years in Office what has he learned? Or is it that he does not care? He does not care about the accuracy of what he says and he does not care about the plans that the Government has, because of course, the situation is that notwithstanding the fact that we blame them squarely for the predicament that they have landed Gibraltar, we blame them for the insanity of the system that they produced. If he wants to answer Mr Byrne's letter about what contributors are getting, perhaps he ought to explain to Mr Byrne that it was his franchise as Minister for Labour and Social Security that produced a scheme that pays most benefits to the people who contribute less. And that by definition, as anybody can understand, the people who contribute least are the people who do not spend their entire working life in Gibraltar. Therefore the scheme that he invented is guaranteed by its very rules to make sure that the Gibraltarian that works the whole of his life in Gibraltar gets less benefits for his contribution than a Moroccan, a Portuguese, a Spaniard, an Indian, a Filipino or anybody else, because the scheme is not proportional to benefit and contributions as it is everywhere else in Europe, Mr Speaker. The whole of Europe has Social Security Systems where there is a relativity between what you pay and what you get. Our scheme has got such a relativity as well "The less you pay the more you get". In our case foreigners pay the least and Gibraltarians pay the most. Mr Speaker, the Hon Member has the audacity to come here and bring a motion after we have been more than generous to Members opposite because we came back from doing a deal in the UK and we did not come out saying "this is a victory for Gibraltar which the AACR failed to deliver", we brought the Opposition into our confidence and explained why we were doing things and I explained it to the Honourable the Shadow Minister for Labour first and I then told the Leader of the Opposition. He then asked me to explain it to the whole of the Opposition and Members opposite came into my office. Mr Speaker, on the last occasion that the Shadow Minister for Labour put a question here I said he had two choices either he put questions here asking for public explanations of they accepted the delicacy of the matter and accepted that it was in the best interests of pensioners to get private explanations. They are however not interested in private explanations because they are not interested in curing what they have left behind all they are interested in is being proved right in the attempt that they are making to exploit unscrupulously and without an ounce of integrity the feelings of pensioners. All they are interested in is worrying pensioners in order to gain political capital.

MR SPEAKER:

I must draw the Hon Member's attention to the fact that you cannot imply or impute improper motives to other Members of the House.

HON CHIEF MINISTER:

Well Mr Speaker, if I cannot imply or impute improper motives then I must say that the entire performance of the Opposition from every question and every motion that they have brought to the House are motives that are proper to the AACR, even the record of the AACR, but would be improper for the GSLP, so I would think that their behaviour would be improper if they were committed, dedicated politicians of the calibre that sit on this side of the Government. But on their side it is not improper at all, it is what Gibraltar is used to after their forty years of running the place for their own advantage.

HON A J CANEPA:

Is that why you abuse on telephones? Is that why you get the public to pay your telephone bills for you?

MR SPEAKER:

Order, order, order. When I say improper motives, I say personal improper motives. However talking generally is a different matter.

HON CHIEF MINISTER:

Well Mr Speaker, the improper motives I would say would be if I were to say to the Member opposite that when he was made the Deputy to the Chief Minister it was as a sop to his aspirations and which cost the taxpayer money for which he produced nothing. That would be in my judgement an improper motive as I would be attacking him personally like he has just attempted to do with the telephones. I am talking about their political role, in their responsibility as a Government, where they have failed as well as in their role as an Opposition today, politically they are failing because their motives are vote catching and not out of concern for pensioners. Now in my judgement, Mr Speaker, that is improper but not improper at a personal level, in the sense that they are going to make money out of it, but improper at a political level because, I believe, that the criteria by which they should conduct themselves should be the criteria that they have always expected of others when they were on this side and which they demonstrated in the sixteen years that I was in Opposition, Mr Speaker, I have never seen anybody on that side of the House behave with the bare face cheek that I have seen Members opposite behave since they went into Opposition. To some extent I can make

allowances for those who were not in Government before because after all they may feel that they would have done much more had they been there but they were not. However those who have been in Government know that I am telling the truth, and whether the people outside know it or not, they know it is true and they know that they did not have a clue how to deal with the problem in 1988. They knew when they went into the election that this was a nightmare that they were leaving behind and they did not have an answer to deal with that nightmare. Now we have produced an answer that has safeguarded the position and therefore all that we can do at this stage, Mr Speaker, is remind people where to lay the blame for the destruction of the Social Security System in Gibraltar. That blame lies fairly and squarely with the AACR and in order to be able to reassure people on this matter I will then talk at a later stage on the amended motion.

MR SPEAKER:

If there are no other speakers, I will call on the Mover of the amendment to reply.

HON R MOR:

Mr Speaker, there is nothing to reply to on the amendment.

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 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 Members abstained:

The Hon J H Bautista
The Hon E Thistlethwaite

The amendment was accordingly passed.

MR SPEAKER:

Members who have not spoken on the motion may do so.

HON DR R G VALARINO:

Mr Speaker, this motion arises as a direct result of the present Government's intention to freeze old age pensions, retirement pensions and elderly persons pensions at the January 1988 levels and the indication that this policy will continue during their present term in office. This in itself criticises the Government for failing to safeguard the purchasing power of old age pensions.....

HON CHIEF MINISTER:

That is the original motion which has already been amended and voted on.

HON DR R G VALARINO:

No, the amended motion has already been passed so now we go back to the original motion.

MR SPEAKER:

A vote has already been taken on the original motion and the Leader of the Opposition's motion has been defeated. We now have the motion as amended by the Minister for Labour and Social Security.

HON P C MONTEGRIFFO:

I think, Mr Speaker, there has been an element of confusion on our side on the way the original motion has been dealt with. In any event, Sir, dealing with the amended motion and which is the only motion before the House, what is clear is that the amended motion fails to deal with the concern which prompted the Opposition to bring the matter here today. In typical fashion, the Government has not even attempted a bona fide answer as to whether there will be increases and to what extent the public will be given details. We have been given a complete set of historical red herrings and secondly, what has now become very much a bore, especially in this heat, the accusations of incompetence, lack of integrity, lack of calibre etc. Mr Speaker, I want to deal first with this point because frankly the calibre of Ministers opposite is very much something which people in the street will have something to say about and I am not going to pass personal judgement on each individual Member of the Government but frankly in a Legislature where we are all concerned about the good of the people of Gibraltar, about the good of our City, to hear the Chief Minister make accusations which he would dare not repeat outside this House because they would be libelous or if he did they would certainly be

so ungenerous as not to be deserving of somebody in his position and is very sad. I say that because I cannot conceive how the Hon the Chief Minister can say that every single Member sitting on this side, including myself a young man of 29 with one child and a pregnant wife, with my profession in Gibraltar, having been educated in Gibraltar, whose family has lived for generations in Gibraltar, are only interested in standing up in this House to further our own ends, Mr Speaker. To say that I am only interested in protecting my skin and that I am part of a cancer on this community is I think scandalous. When a debate gets to this level then, Mr Speaker, it is clearly an example of a Government that is not interested in rational debate and I do not intend to make counter accusations. On the contrary, I think the Government of Gibraltar is doing what they feel is best for Gibraltar and I think the Chief Minister is genuinely concerned to protect the position. I think he has an enormous dedication in his work and I have told him personally that his example of work ethic and how he actually works personally is an example to people who aspire to those positions of responsibility. All we argue with, Mr Speaker, is the decisions he may take on matters of judgement but I would not dare to suggest, Sir, that Members opposite are masochists and are really in this without any integrity or without caring for Gibraltar. I cannot conceive that and I am not prepared to say that, on the contrary I have a lot of respect for people who are putting in the hours that they are putting in if only he was generous enough to realise that we are all humans and make mistakes and that we can recognise good on the other side then perhaps, Mr Speaker, we could have a happier environment in this House. Our concern, Sir, of course our concern is also to make sure that we reflect public opinion and that the public feels that we are giving them what they want politically. That is our job as an Opposition, but our concern is also fundamentally how present pensioners are going to be affected and the amendment does not deal with that and I invite the Government, in reply, to tell us clearly what is its policy. In their judgement, in their bona fide judgement, is it the best thing for Gibraltar, in view of the circumstances we now find ourselves in, that there should be no increases in pensions, yes or no? Then you defend that as best you can. Is that the position, yes or no? Secondly, to what extent can you feel you can make public matters? If you tell us, our view was that the deal was struck and that we cannot go public for reasons that there might be a misinterpretation of certain information. Well, Mr Speaker, we may disagree, but it is a bona fide reason, which will carry because the Government has the majority. What we cannot accept is an inability on the part of the Government to respond to reasonable requests for assurances. The Government simply says, as my colleague the Leader of the Opposition has stated, that we should entrust the people of Gibraltar's future, as far as pensions are concerned, to the judgement of the Chief Minister. Well

surely this is totally against the whole system of parliamentary democracy. There may be circumstances in which the Government cannot give us all the details but, Sir, we cannot just have a trust situation because then we might as well all go home and have a dictator, a benevolent dictator, who cares for us all and who has our good interests at heart and we simply wait at home awaiting the good news. That is not what parliamentary democracy is about. I know that Hon Members opposite believe that that is what it is all about. So, Mr Speaker, please let us not have anymore accusations of lack of integrity but simple answers to simple questions about which we may disagree but which will be rational replies to genuine concerns that are felt by the people in Gibraltar Sir. The motion, Sir, in conclusion simply seeks clarification of certain basic facts which we feel are genuinely the concern of pensioners and contributors. We are all waiting to see whether we can have a straight reply, a reply with which we may or we may not agree with but which at least will be on record so that people will be able to understand. Thank you Sir.

HON CHIEF MINISTER:

Mr Speaker, the amended motion before the House, as the last speaker, has recognised does not deal with the concern expressed in the motion that has been amended. It deals with the history of why we are where we are and the reason why it deals with the history of why we are where we are is because the motion brought by the Opposition was a motion of censure against the Government of Gibraltar for failing to do what? For failing to do what the AACR would have done? We know what the AACR would have done because they did not leave us a problem and a range of solutions, what we inherited was a problem as a result of the failure of the previous Government to safeguard the position and we had to evolve the situation ourselves. A solution which we have attempted to share with them and if the Member opposite thinks that I have been too harsh in my criticism of their behaviour then I can only tell him that they have themselves to thank for it. Because I was prepared to give them the benefit of the doubt in the beginning when they were in fact responding. Mr Speaker, let me remind the House of what the Leader of the Opposition said in January when he put a series of questions and I answered all of them together. They were Questions No. 40, 41, 42 and 43. They all dealt with the same matters that he included in the original motion and all of which had already been answered before. The response then was that he was able to understand and assess the extent of what we were trying to do over the next five years and he was able to do that, he said, because he was in the fortunate position of understanding how the Scheme worked. He however accused me of not being able to reach the average man in the street. He said "it is a particular lacuna, will the Chief Minister accept

that it is a lacuna, it is a glaring example of his not being able to do what he normally has been able to do and which is to speak frankly, clearly and bluntly to people". He accepts, Mr Speaker, that I cannot do so and then he deplores that I do not it. I think this is, Mr Speaker, at best inconsistency, at worst hypocrisy. Because if you accept that something cannot be done then you do not condemn somebody for not doing it. Therefore the situation is that as far as we are concerned we would not want to go down the road of apportioning blame. I said that right at the beginning of this saga. As far as I am concerned it is history how we got where we are. But if the other side are going to start throwing stones they should remember the old saying that people in glass houses should not throw stones. The Hon Member should realise that what we have is not of our making although we have tried to cure it. We have prepared a way forward and we have offered to share the information with the other side particularly I recall saying to the Shadow Minister for Labour and Social Security Dr Valarino that "if he wanted to be satisfied himself about what we were doing we were quite happy to explain to him what we were thinking, in confidence, and to in fact take into account any ideas he might have". There is nothing wrong with that. That is if he is really concerned to know what is going on. I accept entirely, Mr Speaker, that in Opposition, politically one can argue: "Well, it is not my problem, I am now in the Opposition, other people are in Government it is their problem, let them find the solutions and let them have the hassle and the criticism from the public". But at the same time people should not go round with firewood throwing petrol all over the place. If one really believes that the Government is trying to come up with a solution which will not destroy us in the process because of the complications of Community Law and which we are convinced could have been avoided and this can be proved. But as I say you do not do that. You do one or two things, you either say "well, as a matter of civic responsibility I will get into the boat and paddle as well" and which I accept may not be a very sound thing to do from their political survival point of view and which I accept and respect or you say "look, I am keeping my distance". As far as I am concerned if somebody says what is the Government doing about it? I shall say "go and ask the Government". But what you do not do, Mr Speaker, is try and undermine what is being done, particularly when you have chosen not to find out. Deliberately refused the offer Mr Speaker. Under these circumstances I can only come to the conclusion that in fact the AACR, in Opposition today, is compounding their failure in Government. They failed to do something in Government and they are now failing in Opposition. Because they are, in fact, not interested in us succeeding in doing something but they are interested in tripping us up. The people that are closest to those affected have

been regularly consulting with me, let me say, and have confirmed to me, in writing, that they understand and fully support the need of not making public statements of this matter. And I can tell the Honourable Member that I believe that even if I do not have the time to stop and talk to the people who gather below this House, I have spoken to representatives of a cross section of pensioners that have come to see me and discuss our ideas for the way forward. They have also understood how essential it is to maintain the matter in the way that it is being maintained, on the basis that we do not make public statements which are open to misinterpretation for the reasons that I have explained in this House ad nauseam. It is clear that if I keep on explaining the same thing and it falls on the deaf ears on the other side and I say deaf because they do not wish to hear the truth, they are only receptive to what suits them.

MR SPEAKER:

If there are no other contributors I will call on the Mover of the motion to reply.

HON A J CANEPA:

Mr Speaker, the Honourable the Chief Minister has finished his second contribution by once again making reference to the need not to make public statements on the matter. We had been told earlier on in this House by the Chief Minister that we could not make public statements on the matter of Old Age Pensions because he had entered into an agreement with Mrs Lynda Chalker which bound him not to make statements that could be misinterpreted by Spain. We took advantage of Sir Geoffrey Howe's presence here in Gibraltar, when we had our meeting with him at the beginning of February, to bring precisely that matter up and we pointed out to him that there was the difficulty which the Chief Minister had mentioned of an agreement with a Foreign Office Minister which precluded him from making such statements. There is therefore apparently some doubt as to how much the Spaniards had been told or how much they knew. Sir Geoffrey Howe did not confirm to me or my colleagues that such an agreement existed and that the Chief Minister of Gibraltar was bound by that agreement not to make public statements on the matter. On the question of how much the Spaniards had been told, Mr Speaker, Sir Geoffrey said that at every level both political, ministerial and official, the Spaniards had been fully informed about what was proposed and that they clearly understood the British Government's position on the matter. Those are the facts as far as we understand them and as we have been able to ascertain them from the other quarter available ie the Secretary of State himself when he was here and since we do not get many opportunities to see him when we do, we seize them. Mr Bossano, earlier on said that I should explain to Mr Byrne but Mr Byrne has asked a series of specific questions, which I have

quoted here in this House, and which apparently the Government of the day does not consider should be asked. It is not very often that there are replies to letters these days but of course there are not very many letters of that type in the press these days. When Honourable Members opposite were in Opposition they used to engineer and ensure that such letters saw the light of day. But today, Mr Speaker, we have the opposite. Today we have the Opposition or a Member of the Opposition making an accusation against the Government and somebody rushing to the assistance of the Government. Sometimes a certain John H Gomez who I do not think is very well known since there are so many Gomez's in Gibraltar. Or some Alvarez or some Lopez. All apparently quite close to the Government and they reply. That is the way that the Government is dealing with the matter. I have nothing to say to Mr Byrne because I do not have any contact at all with Mr Byrne. Mr Speaker, it is their responsibility to explain because they have been in Government sufficiently long and because they have entered into an agreement as the Chief Minister has said in the House and the Minister is repeating today in which they undertook not to make public statements. The reason why he is not going to make public statements is because they can be misinterpreted and those who are in the know, the coterie of close friends of his, understand these things but poor Mr Byrne does not. He does not have that sort of relationship with the Chief Minister so he is not in the know and therefore he has to have recourse to writing letters to the Chronicle which do not get answered. Mr Mor said that if Spanish pensions were being paid out of the Social Insurance Fund, the Fund would be bankrupt today. Of course I agree with that, Mr Speaker, but who said that they were going to be paid? During the three years of our agreement Spanish pensions were not paid out of the Social Insurance Fund. They were paid from the £4½m that they had put in and not a penny more. And they would not have got another penny. Not one penny of Gibraltar's money went towards the payment of those Spanish pensions during those three years. And as from the 1 January 1989 if we had been in Government they would not have been paid in the absence of a satisfactory agreement with the British Government. So as for pensioners being thankful that they are getting a pension, Mr Speaker, I would put it to Mr Mor that he should go and tell them that. The next time that they approach him let him tell them that they should be grateful and thankful that they are getting a pension at all after contributing for so many years. There is a matter, Mr Speaker, that out of deference to you I am not going to deal with and that is the statement which you made in this House in 1970 when you were Chief Minister. I have dealt with that matter on a previous occasion, here in the House, when you were not Mr Speaker and I think that I should not in any way say anything that would involve you out of deference to you. At least I think I owe you

that. If I had not previously dealt with the matter then I would have felt bound to do so but it is on record in Hansard that I have answered that point about the attitude of the then Opposition to the proposal to hand over £4m.....

MR SPEAKER:

May I say that my presence here should not inhibit whatever you may wish to say.

HON A J CANEPA:

I understand, Mr Speaker, but I am inhibited and since you are the Speaker of this House I must treat you with the utmost respect and once you are the Speaker of this House I should not involve you in a political controversy. The Spanish pensions problem Mr Speaker, is solved, is it not? At least that is what they tell us that miraculously they have solved the matter and not a penny has been paid apparently out of Gibraltar money. However what is not clear is at what price? Perhaps a heavy one has been paid in spite of whatever the amended motion may say about the continued payment of existing pensions and the development of alternatives for the future. It seems to me that whatever alternatives the Government has for the future they contain in them a price or at least part of the price that has been paid in the end. Mr Speaker, the Honourable the Chief Minister has got it wrong as to what it is that happened in December 1985, prior to the Spanish accession and prior to the initial payment to Spanish pensioners. And I will inform him once and for all of what exactly it is that happened. We had been arguing the toss with Sir Geoffrey Howe and his officials over who was going to pay for Spanish pensions as from the 1 January, 1986, and then when we went to Madrid at the beginning of December 1985, we had on the table, something which we had rejected but the British Government had not come up with any alternative since the last offer that the British Government had made, at the time, was to pay £6m for one year and that out of the Spanish Sub-fund £1m should be paid. We were not going to fall for that trap, which was a blatant trap, we were not going to fall for that. We had as a result fallen out with Sir Geoffrey Howe and I think it was in Panorama that reference was made in an article precisely on that incident. This was when he had walked out of a working breakfast because Sir Joshua and I had dug in our heels and were not prepared to make any concessions on the matter. In Madrid at the beginning of December in the context of the Ministerial talks, Sir Geoffrey Howe had had a meeting with Senor Ordonez, prior to the plenary session in which we were involved, and at the end Sr Ordonez had brought up the question of the payment of Spanish pensions as from the 1 January 1986. Near the end

of the Plenary Session one of the officials in the retinue of the Secretary of State came up to Sir Joshua, myself and the late Mr Pitaluga and showed us a draft Press Release that it was proposed should be issued jointly by the two Foreign Ministers at the conclusions of the talks. In that draft Press Release there was a reference to the fact that Spanish pensions would be paid from 1 January 1986. Sir Joshua Hassan looked for the Secretary of State and told him that that was a matter for the British Government and if they wanted to have inserted in a joint Press Release a reference to the fact that Spanish pensions were going to be paid then that was a matter for them. He however, said that the Gibraltar delegation did not agree with this and that we would not pay a penny out of Gibraltar money. Now that was at the beginning of December and on the 22 December, a few weeks later, as a result of protracted correspondence, following our return, between Gibraltar and London that the three-year offer was made whereby the British Government undertook to pay £16½m together with the Spanish sub-fund £4½m. Now that was very much of a cliff hanger because the British Government knew that we were not going to pay on the 1 January 1986. Those are the facts of the matter, Mr Speaker, and I think that the Chief Minister should take a little bit of care about accuracy in the future because I am prepared to repeat the events again if I have to. Finally, Mr Speaker, I would like to end on the note where the Chief Minister said that the AACR was a cancer on the skin of the Community and that we only cared about number one. The degree of hatred in the heart of the Chief Minister is such that he is prepared to say things like that about Sir Joshua Hassan, about myself and about my colleagues. Usually I try not to reply in kind but I must say this, if we are going to talk about care then how much did he care about the hardship and the suffering that he was causing this Community during all the years that he used industrial strife in order to advance his own political ambitions? He was the one who was doing precisely that, looking after number one and on that note I end, 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 R Mor
The Hon J L Moss
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon J E Pilcher

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 Members abstained:

The Hon J H Bautista
The Hon E Thistlethwaite

The motion, as amended, was accordingly passed.

The House recessed at 5.10 pm.

The House resumed at 5.30 pm.

HON G MASCARENHAS:

Sir, I have the honour to move the motion standing in my name, that:

"This House considers; (1) that the people of Gibraltar being citizens of the European Community should be entitled to vote in the elections for the European Parliament, (2) that the people of Gibraltar must be directly represented by our own Member in the European Parliament, and (3) calls upon the British Government to make the necessary arrangements immediately to recognise the above".

Mr Speaker, I sincerely hope that the motion before the House will not prove as controversial as the previous motion. It is not my intention for this motion to be controversial in any way and I have no doubt whatsoever that the sentiments expressed in the motion are very much the sentiments of the vast majority of the people of Gibraltar. It is inconceivable, in 1989, that the only citizens of the European Community who are not entitled to vote in the European Elections are the people of Gibraltar. This is as much inconceivable as it is deplorable and yet it is the reality that faces us today and starting from this House we must seek to change that. Only recently in the House of Commons, Mrs Lynda Chalker, the then Minister of State of the Foreign Office had the cheek of the "chalk" to dismiss outright the arguments being put forward by Michael Colvin, the Chairman of the AllParty British/Gibraltar Group in the Commons, to whom we are most grateful for his help and his support and that of his colleagues. But of course we are also most grateful to the Gibraltar in Europe MEP's Group that represent us and which they do so very well. But, Mr Speaker, that is not enough, it cannot be enough, we need and require to have our very own Member of the European

Parliament at Strasbourg, elected by the people of Gibraltar, at the very same time as the rest of Europe votes. This is a basic democratic right which is being denied to us at present. The argument of the size of the constituency has been more than shot down and buried with the example of Luxembourg and now Mrs Chalker has used the argument that Luxembourg is independent. What next? Are we or are we not Community nationals? Do not most of the EEC Directives apply to Gibraltar? For better or for worse Gibraltar is a Member of the Community and the people of Gibraltar are Community Nationals. Recently Mrs Thatcher in an interview during the French Republic's celebrations inter alia mentioned the Magna Carta. For those who might not be too cognizant of what that document stands for, including perhaps Mrs Chalker, it is about peoples' rights, it is about the guarantee of rights, it is about unenviable rights and I recall, Mr Speaker, and I am sure most Members in the House today will also recall, including yourself Sir, the attitude of the British Government to the Nationality Act. And that it was thanks to the help of our many friends in Parliament and through our own efforts, here in Gibraltar, that we succeeded in winning that fight. Now the message that has to go out of this House today, in relation to the question of the European Elections, is that we are united on this issue and that we shall fight just as hard and as long as we did with the Nationality Act. We also have a new Foreign Secretary and a new Minister in the Foreign Office and I hope that they will be able to view the whole matter, which is very important to the people of Gibraltar, with different eyes than their predecessors. We can but live in hope. Now without wishing to be critical of the Government during this motion what is required is a realistic course to achieve our aim and I am convinced that we require a fully-fledged lobby office in Brussels which could enable us to move to Strasbourg at very short notice. Perhaps, rather than Strasbourg because the European Parliament does not meet that regularly, but certainly Brussels is where the decisions are made. Perhaps expanding the office in London to have a more political role because if we can afford offices in America, Hong Kong, for economic reasons, and I am not criticising that, then I think that a lot of Gibraltarians would be very happy with the expense of having a lobby office in Brussels, where decisions affecting us politically are taken all the time. I think the expense of maintaining an office there where Members of this House could make periodic visits to lobby on behalf of Gibraltar would be very worthwhile because we would be fighting where it really counts. With this I do not mean doing without the London connection altogether. I am convinced that the fight has to be taken out of Gibraltar to where it counts, in Brussels, with periodic excursions into the area of Strasbourg when the European Parliament is meeting to try and put as much pressure as we can to the European Parliament on Gibraltar. We are a people and however

small we may be and we may be an accident of history, but we are here and this is our homeland and we are in Europe and for better or for worse the people of Gibraltar are Europeans. Perhaps using that catchphrase as it was used in the sixties about being more British than the British we should perhaps now show that we are more European than the Europeans. Certainly nobody can dispute that because the inter racial mixture of our blood through nearly three centuries consist of Italian, French, Germans, Spanish, Portuguese, Scottish and Irish and it can therefore be seen that all the European bloods are mixed up here in Gibraltar. Perhaps we can claim to be more European than the Europeans and yet the reality is that we are the only Europeans that are not allowed to, no matter how much blood we have running in us which is European. Mr Speaker, in conclusion, we have to change this anomolous situation and no one else is going to do it for us. We in the Opposition are ready and willing to play our part fully and I call upon the Government to react positively for the benefit of Gibraltar. To finalise, Mr Speaker, Gibraltar has once again to go on the political offensive and it has to be a major political offensive nothing else will count. I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon G Mascarenhas.

HON J C PEREZ:

Mr Speaker, I am glad that the Honourable Member opposite has come round to declaring himself specifically on how Gibraltarians should be represented in the European Parliament and I say this because I have always held the view that we should be directly represented. I was a very strong advocate of this and still am within the European Movement where both the Honourable Mr Mascarenhas and the Honourable Mr Featherstone represented the AACR and subsequently Mr Montegriffo took over. However at the time when Mr Featherstone and Mr Mascarenhas were there, and I have to make the point that we have been fighting this together as Government and Opposition when we were on different sides of the House, I remember that the view always was that we should not be asking for direct representation. The idea was that we should be asking for enfranchisement and that we should be allowing the European Commission and the British Government a certain amount of leeway on how that enfranchisement should take place. I always insisted that I thought that it was important to ask for direct representation because by doing so we would be removing the very dangerous option that could be put to us of voting in a constituency of our neighbours. I am glad that Honourable Members opposite have been swayed to the position that we have consistently been advocating within the European Movement and I must say that although we are going to support the motion, I think the Honourable Member should not say that the fight starts here because this fight started a very long

time ago. The fight for enfranchisement started a very long time ago in the European Movement with both parties participation and which has done very good work, particularly the President, Mrs Cecilia Baldachino. You will recall, Mr Speaker, that the matter went to the Political Affairs Committee and that we had conflicting reports made by a Mr Bocklet who first endorsed enfranchisement and who later, when he was canvassed by the Spanish representatives gave the complete opposite view to the one he had originally given and I think that we should be very grateful of the efforts of Monsieur Chanterie who was invited here by the European Movement and who after we had explained what had happened and in consideration that he was taking over the Chairmanship of the Political Affairs Committee in Brussels, fought on our behalf very strongly and very ably with the support of the Members of the European Parliament. We then managed to reverse the Bocklet decision and the Political Affairs Committee is firmly of the view that Gibraltar should be enfranchised and that the Gibraltarians should have the right to vote in the European Parliament. Now as in everything else because of the legislative programme of the European Parliament in Strasbourg, although this motion was passed, I think eighteen months to two years ago, this needs now the endorsement of the European Parliament. In every legislative process the matter is included and efforts need to be made by supporters of ours to try and give it the priority that it deserves. We are hopeful, because we have five years of the new legislature in the European Parliament, that on this occasion the feeling and the view of the Political Affairs Committee should be endorsed by the European Parliament. It would take effect as a resolution of the European Community and Britain would be asked to act on it. That is the process that now needs to take place after Monsieur Chanterie, as I said before, very ably managed to get the original decision reversed and get the Political Affairs Committee to come out in favour of the people of Gibraltar and in favour of the right to vote in the European election. Mr Speaker, once that process happens the matter is then put to the British Government because we are Members of the European Community by virtue of Britain's Membership and therefore a resolution of the European Parliament would then have to be put to the British Government for them to give effect to it. And in giving effect to it, I agree that what we should be saying is we want direct representation, but we have to be clear what we are saying, because when we say that we want direct representation we can either have it in two ways. We can either have it because Britain gives us one of her seats and consequentially Britain has one less seat in the European Parliament or as a matter of law we can have a seat, like Mrs Chalker said, because we are decolonised. Being a colony and being part of the European Community, as part of Britain's Membership, the only way to get direct

representation is by those two ways. Yes, Mr Speaker, I support the motion and I support that we should have direct representation. I however think it ought to be made clear that those are the two options, either Britain gives up one of her seats and gives it exclusively to Gibraltar for the people of Gibraltar to be directly represented or we become decolonised and we become Members of the European Community in our own right and an exception is made in the number of electors that constitute a seat. Those are the two only ways that Gibraltar can achieve direct representation. Mr Speaker, the struggle has been a long one and I foresee that it will continue to take a long time to get the people of Gibraltar voting rights. I am glad that we are able to vote in favour of this motion and that we can come out with a united front on this one. I say this, Mr Speaker, because I was rather surprised when we had a demonstration to The Convent on Europe Day and I heard an interview on television the following day where the Honourable Mr Montegriffo was saying "What we need here is a united front". I had always thought that we had had for many years a united front on this matter but the Honourable Member seemed not to have gathered that at that stage and I am glad to be able to demonstrate this to him in this House today. As far as the Honourable Member's suggestion of a Brussel office, its cost and everything else, I can state that the Government has been looking at that from day one and will continue to look at it. There is no comparison with the majority of the offices that we have opened in Hong Kong, Tokyo and elsewhere. Because these offices do not cost Gibraltar a penny whereas this one will because no one is going to give you free of charge and with political backing an office in Brussels. This matter has been under review not only as a platform for fighting political issues but also to obtain more information about EEC Directives and their legal implications and which is something that should have been looked into at the time that the frontier was opened and Spain joined the Community. Because ever since then we have been feeling the impact of the Community and have been reacting to its effects, when we should have been taking measures, well before Spain joined the Community, on a lot of areas. We are not going to raise them here because as the Honourable Member said we do not want the motion to become controversial. So, Mr Speaker, the Government supports the motion and is happy to see that a strong and definite stand is being taken on how Gibraltar should be represented. We have been taking this view for very long and we are glad that we can take a united stand not only on the question of the enfranchisement but on how we should be represented. Thank you.

HON P C MONTEGRIFFO:

Mr Speaker, to giggles from the other side I rise to say that we welcome the Minister's assurances that the

Government is happy to proceed on a joint basis with the Opposition on this motion. I want to just highlight a few matters why I personally consider it is important that there should be a united approach and why I rise to support my colleagues's motion today. Sir, the increasing importance of the European Parliament was recognised in the Single European Act which also set in train the 1992 changes and it is clearly the trend of the way the Community is moving to give the European Parliament increasing powers. I think that we must not be flippant in not recognising the arguments that the size of Gibraltar means that there is an element of distortion in Gibraltar having one MEP. I say this because although Luxembourg has a population of 60,000 for one MEP, 20,000 people is still a distortion, but it is a distortion which is more than justified and it is a distortion which is not really a distortion in that every other Member State, and of course we are not a Member State, but Member States normally have representation in the Community, not just through the Parliament but through the other institutions and in fact most of the powers, as Honourable Members will appreciate, do not rest with the Parliament. They rest with the Council of Ministers and with the Commission on which Luxembourg, for example, would have its own Civil Servants and have a say in the Council of Ministers with a Minister taking his seat whenever a decision is taken. So that therefore, if there was ever any arguments that in numerical terms there is an element of distortion for Gibraltar in having one MEP, in terms of representation in a global sense, it is more than justified inasmuch as Gibraltar has no voice anywhere else and the very very least that Gibraltar can aspire to is to have this single MEP in Strasbourg. He would at least be able to monitor within the supervisory and advisory role that the Parliament has whatever changes may come in Gibraltar's way and which at present we tend to get to know about very late in the day. Sir, the options that the Minister has stated, I think, are well understood in Gibraltar and clearly there is no chance about being decolonised bearing in view the Government's view that no change is required, so the only possibility would appear to be the allocation of a direct seat from the UK's own quota. The reason that I expressed some resistance or hesitance on television as to whether there was a united view on this was because despite the fact that we had worked jointly within the European Movement, there had been quite categorical and unequivocal statements by Members opposite, and the Chief Minister in particular, in relation to the 1992 Motion where the Government had stated quite clearly that they did not feel that they could work with the AACR on anything. Let alone on voting rights or anything else.

HON J C PEREZ:

Mr Speaker, we were working on this already.

HON P C MONTEGRIFFO:

Well, Mr Speaker, that statement was not qualified and I am gladdened to see that that is the case. At least it may show that through this experiment maybe some of the mistrust and some of the divisive elements in our political system can be improved so that a joint consensus, which is my style of Government or would be my style of Government, can prevail. Sir, I take the opportunity to ask the Minister, bearing in mind that the Government is prepared to confirm a joint approach if he could perhaps indicate what the Government's attitude is to an initiative which the Minister will know we hope to take to the European Parliament, of creating a European Movement, or a European Forum.

HON J C PEREZ:

Can the Honourable Member give way for one minute, please.

HON P C MONTEGRIFFO:

If it is on this point, Mr Speaker.

HON J C PEREZ:

Mr Speaker, let me elaborate on this point. This has nothing to do with the motion, Mr Speaker, because the motion is about whether we proceed on a united front for Gibraltarians to have the right to vote in the European Parliament and how that representation should be made, not a joint platform for all European matters. That is the text of the motion and that is what I have addressed myself to and that is what I think the Honourable Member should address himself to and not on every other platform that he wants to create on 1992, on the Single European Act or anything else. The motion specifically reads "enfranchisement and how that enfranchisement should take place".

HON P C MONTEGRIFFO:

Mr Speaker, I do not want to be controversial but I do not think that the Hon Minister is being accurate. The terms of the letter that we addressed to him.....

HON J C PEREZ:

I am talking about the terms of the motion and not the letter.

HON P C MONTEGRIFFO:

But we are talking about a united approach which is what the Government is saying they are prepared.....

HON J C PEREZ:

No, Mr Speaker.

HON P C MONTEGRIFFO:

Well I am replying to the Minister's statement Sir, that the Government is prepared to have a joint approach on the right to vote and how Gibraltar is represented. And what I am saying is that in having a united approach, Mr Speaker, the Minister is well aware that within the European Movement which is the body fronting this argument an initiative is being taken by the Opposition seeking the Government's consent to widening the forum so that apart from our agreement to this joint approach, we can also include the Chamber and the Trade Unions so that together if we have to chase, for example, a letter to Sir Geoffrey Howe, now to Mr Majors, it would add weight to the argument if it was said "in pursuance of the policy of the European Movement to seek enfranchisement and to seek direct representation in the European Parliament we have created a forum on this question". In fact the Minister will know that in the letter I specifically mentioned the question of voting rights as a prime example on which we could cooperate. Not about 1992, the prime example is we have a situation.....

HON J C PEREZ:

Will the Hon Member give way?

HON P C MONTEGRIFFO:

When I finish on this point, yes.

MR SPEAKER:

Before you finish otherwise you cannot give way.

HON P C MONTEGRIFFO:

Absolutely Sir. The prime example is the question of the right to vote and how we are represented and since the motion calls upon the British Government to make the necessary arrangements and we are discussing how Gibraltar should mobilise a united approach I take this opportunity, bearing in mind the Minister's positive attitude in working jointly, to see whether he can indicate at this stage whether the Government welcomes, as we suggested, the participation of the Chamber and the Trade Unions. So that we have this global approach to this issue, which in my view, would strengthen it and I invite the Minister to comment on that.

HON J C PEREZ:

Mr Speaker, if the Honourable Member wants to raise anything else other than the sense of this motion then I think he should bring a separate motion to the House on the matter. What I have told Members opposite, including the Honourable Member, is that I am glad that they have come to look at the position of how enfranchisement should take place. We have been doing this for many years and have worked jointly on this within the European Movement. Now he is talking about creating a forum of how we are going to do this and how we are going to do the other and this is not included in this motion. This motion is a declaration to be conveyed to the British Government and that is it. The forum through which the battle should continue to take place has to be through the European Movement and in the same way as we have been doing previously. No other new matters can be raised in this motion. If the Honourable Member wishes to raise other European matters then he should have amended his own motion and come up with another text. We are saying yes to this but on the matter of the letter, which he still has not had a reply although one will be sent shortly, there is nothing in the motion. This is saying, yes we agree to continue to do what we have been doing within the European Movement for a very long time and we agree to pursue the matter. We are also glad that we can now agree on how that representation should be made. But that is all. The text of the motion limits the agreement of the Government to this matter and if the Honourable Member wants to bring other points let him bring a new motion or amend the present one.

HON P C MONTEGRIFFO:

Mr Speaker, I do not want to add to the controversy but it is clear that, in my view, a more helpful attitude from the Minister would be better but if he insists on taking that strict and technical interpretation to the motion then we will all wait for their reply although it sounds to me that the answer is no, but perhaps I will be pleasantly surprised.

HON P C PEREZ:

Mr Speaker, the answer is no because the Hon Member has already been told no by the Government.

HON P C MONTEGRIFFO:

I have got my answer already Mr Speaker, and the answer is no. The question we should address then at some future date and I end my contribution on this note Sir, is that declarations of this nature whilst helping perhaps to identify the resolve of the House do not really take matters

further on a practical level and we would therefore want to, at some stage, to coordinate what further action should be taken and in that respect I am waiting to hear from the Government on the Opposition's own ideas on the matter.

HON CHIEF MINISTER:

Mr Speaker, the only thing that I am rather confused by is the last remark of the Member opposite that declarations of this nature do not really get us anywhere. If declarations of this nature are not going to get us anywhere why has he kept us here for the last half hour listening to declarations of this nature?

HON P C MONTEGRIFFO:

Declarations of this nature have no practical effect in actually taking the case forward. It has the effect, as I said, of identifying the resolve of the House. This is an important step in the people recognising that, in fact, all political forces are united in that opinion. But if we simply could resolve problems and pass some resolutions and motions then we would not have to go anywhere to argue our case. The distinction I think is understood if it is taken as a bona fide suggestion and not as a way of catching me out.

HON CHIEF MINISTER:

We have passed Mr Speaker, something like eight motions in this House when I was on that side of the House and which I had moved on the Airport. It was in fact a way of communicating to Her Majesty's Government the collective view of the Gibraltar House of Assembly. This is what this motion is for and this reflects something which we have already made clear within the European Movement through our representatives. A view that we already held and therefore all that we are saying is "we are prepared to say in public what we have already said privately and we have no difficulty in saying it publicly because we are not changing our views". If we had disagreed with this privately we would now disagree with it publicly. As far as we are concerned the motion is simply a public statement of something that has already been maintained by the European Movement and which is the right of the people of Gibraltar to vote in the European Election. A view which obviously the European Movement can only maintain because both political parties represented in the House of Assembly agree because as you know, Mr Speaker, since you are the founder of the European Movement since you were the one who brought it to Gibraltar. It started in this House and the founding Members were the Members of the House and the Constitution of the Gibraltar Branch of the British European Movement is that it has to have an even balance from the two sides of the House and independents. The independents clearly will not, in

committing the European Movement to a course of action, do something which is going to be politically controversial between the two sides represented, we all know that. All of us who have been in the European Movement since it was started know that that is how it functions. So clearly the motion that is brought here can only be supported by us precisely because we in fact supported that view within the European Movement. This motion is a public declaration of where we stand and the only element that is new, which perhaps the Honourable Mover may have an opportunity to elaborate on in his reply, is exactly what was in his own mind, when he said represented by our own Member in the European Parliament. Given the criticism of his colleague on his left that we should not be too flippant about the size because in fact the size is a material factor and given that he seems to have put a question mark over that, one could perhaps argue that we have read it to mean "that represented by our own....."

HON P C MONTEGRIFFO:

If the Hon Member will give way, Mr Speaker. The Chief Minister has misunderstood. I specifically went out of my way to show that although numerically there is a distortion, and nobody looking at the figures can deny that, precisely because Gibraltar has not got representation in any other institution in the Community where in fact more power resides, to talk of a distortion is not really correct. It in fact legitimises our arguments that we should have an MEP despite the so called numerical distortion. I am not calling to question at all that paragraph and so it was understood. On the contrary I am seeking arguments to justify just how ill-founded the arguments and the distortion is.

HON CHIEF MINISTER:

Well if the Honourable Member will allow me to remind him. In fact, what he said was not that the argument was ill-founded but that the argument was well founded and could be counted for other reasons, because we were not in the Council of Europe, and we were not in this and we were not in that. Where the colleague of his right had in fact already said that the arguments had been totally destroyed by what had been said in the United Kingdom about Luxembourg and that Cheeky Chalker had got it all wrong. I am not sure whether P.C. Monty agrees with Cheeky Chalker or she agrees with him. The point that I am making, and which I do not know whether in his own mind, having our own Member means that we would have a Gibraltar Constituency. Because what I think we have talked about before in the European Movement at least, is the question of how it fits into a UK Constituency and certainly when I have been asked before, in interviews, about this I have recognised the problem. Because if you have, for

example, a Constituency like Alf Lomas with 600,000 voters, then the 30,000 people in Gibraltar, could I suppose, if Alf had a majority of 5,000 sway the decision. Not that Alf needs this since he already has a very strong and solid majority, I am very glad to say, because he is a very good friend of Gibraltar and a very strong supporter of our cause and he himself is very committed to the idea that Gibraltar should have its own Euro MP, but I think it illustrates the argument that has been used about intergrating Gibraltar into a UK Constituency and how do you choose the Constituency? What happens if it is a marginal Constituency and the Gibraltar votes sway the balance? The logical consequence of saying "we want a Gibraltar voice in the European Parliament" is for us to have a Gibraltar Constituency and that that the Gibraltar election would take place at the same time as in the rest of Europe. It would of course be the smallest Constituency in Europe with an electorate of 17,000, but so what? It is not going to change the course of Europe whether there is one Gibraltar or not. It however requires a fundamental negotiation of the Treaty of Rome and the Accession Treaties of all the twelve Member States, including Spain of course, and we know that it is not just a question of persuading Her Majesty's Government but of having to persuade the whole of Europe. I imagine that it will be no easier to persuade them on this one that it will be to persuade them on the Airport, on the Maritime Communications and all the other things that we are being singularly unsuccessful. But that is neither here nor there. We must not allow ourselves to be discouraged by the difficulty of the task and I think that therefore in supporting this, what we are doing is saying "We are nailing our colours to that mast as well". We are not in fact saying, "We have now decided that we are a Joint Venture with the AACR", because that is not what the motion is about.

HON LT COL E M BRITTO:

Mr Speaker, I think it might be relevant to bring back the whole debate to fundamentals and into perspective. I am glad to see that we have the Government's support on the motion because, without doubt, this is one of the issues that has emerged during the past year on which, not only the Government and the Opposition, but the whole of Gibraltar, if one goes by the results of the poll in Panorama recently, are pretty well united. I would like to reiterate the point made by my colleague, the Honourable Mr Montegriffo, just as he finished that it is all very well for us to express unanimity of views on this, in this House, and it is all very well for the Honourable Mr Perez to say that it has been an on-going subject of agreement in the European Movement for a number of years and it is all very well for the Honourable the Chief Minister to say that the British Government have been made aware of our views by way of the motion being

passed in this House, but I would put it, Mr Speaker, that the time has come for actions to be made to sound louder than words and for positive action to follow this motion. I am not sure what priority the Government attaches to this in their programme but it is up to the Government to take the initiative with the support of the Opposition, and it is up to them to initiate some sort of action that will.....

HON J C PEREZ:

Mr Speaker, if the Hon Member will give way. It is not a question of what we are going to do after the motion. As the Honourable Chief Minister has said the motion is a declaration of what we in this House think. It is not a question of saying "Well we are going to start doing something now". We have been doing something for a very long time and we have to continue no matter however difficult it becomes because we have had a lot of support in a lot of forums and at a lot of levels within the European Community. We have to respect that support and the help that people have given to us at the level of the Political Affairs Committee at the European Parliament. That has now got to go through a process within the European Parliament so that it has the strength, so that the Commission can then tell the United Kingdom, "You have to give effect to this Resolution of the European Parliament on enfranchisement". That takes its time and its toll within the system in Strasbourg so that is what we are doing, we have been doing this for a very long time and we shall continue to do so but it is not a question of saying "Well now that we have got the motion we are all going to go and rally somewhere". No, we have to continue to do what we started of to do and what the European Movement with both our support has been very successful in doing. Because it has been an uphill struggle but we have been very successful in getting that Political Affairs Committee Resolution and I think we will be successful in getting that Resolution through the Strasbourg Parliament when it comes up. And now we have to get our friends, our unofficial representatives, which we want to remove, so that we can have a direct representative to help us in pursuing that motion to the European Parliament.

HON LT COL E M BRITTO:

Mr Speaker, that is precisely the point that I am making that this on-going process must be supported and accelerated and given greater impetus and greater momentum, rather than just allowing it to carry on at the somewhat leisurely pace that it has up to now been travelling. If I can take up a comment from the other side, Mr Speaker, everything gathers pace and carries on at the pace at which it is allowed to move. This is a subject where if it is allowed to carry on at its own pace it will be

blocked by Spain at some stage and nothing will happen for the next five or ten years. It is a subject which we have talked about of lobbying officials in Brussels. The Minister has talked about the good offices of the European Movement, maybe that is a venue through which support can be given and maybe the European Movement could be supported financially in order to be able to provide greater support in Brussels or greater lobbying in Brussels and which, as the Honourable Minister knows, it cannot do through lack of funds. That is the point that I am making that the process needs to be given that extra push and this motion seeks to do that.

HON J C PEREZ:

Mr Speaker, if the Hon Member will give way. What I am saying is that all that has been done already and we are at the stage of getting that resolution passed through the Strasbourg Parliament. However there are different priorities being given to different issues and the advantage that we have now is that there is a new Parliament and that because it has five years of life ahead of it we will probably get it into the Agenda some time before the five years lapse. Mr Speaker, Members opposite seem upset that we are voting in favour. When we say we are voting in favour they start to put more obstacles in its path. We are voting in favour of the motion and we shall continue to pursue the matter as we have been pursuing the matter, jointly within the forum of the European Movement. I do not know what else can be done.

HON LT COL E M BRITTO:

Mr Speaker, we both seem to be saying the same thing in different words. It would seem to me that the Minister is satisfied that by just sitting back and doing nothing and hope that everything is going to work and sort itself out.

HON J C PEREZ:

Mr Speaker, it is not that we are doing anything. We are participating in what is being done through the European Movement.

HON LT COL E M BRITTO:

Precisely, Mr Speaker, and what I am saying is that the European Movement can achieve much more and can get much more done than what it has done already if it had greater support possibly in financial terms. What I am saying is that the time may have come for that support to be given now.

HON J C PEREZ:

It has the financial support. Mr Speaker, we doubled their grant from what the Honourable Members opposite used to give them and we have subsidised several things. One of the things we have subsidised is the presence of Dr Peeters. He came to Gibraltar for three days at the request of the President of the European Movement and he is helping us in our efforts for enfranchisement and in other matters. Members of the Opposition have met Dr Peeters so we are doing these things jointly. Things are happening, Mr Speaker.

HON LT COL E M BRITTO:

Mr Speaker, I will not pursue the issue because it seems to be taken like most things that are said from this side of the House, it seems to be taken at a personal level and as criticism and as trying to knock down the Government. In this particular occasion both sides are saying the same thing but what we are trying to say is "let us do more of it and let us do it more positively". I am not criticising the Government, what I am saying is that when the Minister talks about doubling the subvention to the European Movement, I think, from £500 to £1000 it is still not enough. The European Movement has not got enough funds and the Hon Minister knows that. What I am saying is that if we are to achieve or if we are to get the European Movement to have a greater effect in Europe and to achieve more things for Gibraltar then it needs greater support and it is up to the Government to give it that support and we will support the Government in giving that support. That is what I am saying, I am not criticising them but they seem to have it under their skin that everything we say is criticism. I think in deference to the Minister I will give him one last chance, I will give way if he wants me to.

HON J C PEREZ:

No, forget it, because if he is going to be like that all afternoon it is better to forget it.

HON LT COL E M BRITTO:

Mr Speaker, there seems to be a basic lack of communication in this House and I do not think it is coming from this side. I think there are Members on the side of the Government that even when one is trying to speak positively and tell them that we are in support, they still seem to take it as criticism.

MR SPEAKER:

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

HON G MASCARENHAS:

Mr Speaker, I think it was important to make this declaration in this House and I will not say that the fight is starting here. Under no circumstances but what I will say is that it is important because we did have a motion and we havenot declared ourselves saying what we are saying here today. This was important for the future and what I was referring to when I said "a major political offensive" is that perhaps the level of the attack that we have been carrying out for the last few years through the European Movement and who were very very effective in getting us the declaration that we are now trying to get through the European Parliament has been absolutely essential, but what I would like and we now have unity with the Government, is that we the politicians should go at our level and canvas in Brussels. At a different level matters should be addressed more energetically. That is the only thing that I am saying. The Chief Minister quoted the size of the constituencies and I think we are both agreed that whether it is 600,000 constituents in Britain or 20,000 or 30,000 constituents in Gibraltar it should not make any difference whatsoever. I said in my main presentation, Mr Speaker, that the size of constituencies should not make any difference. We are not to blame that there are only 25,000 Gibraltarians and that we are an accident of history. We are here and this is our homeland and I have to repeat that because it is very important that we carry this argument to Europe successfully. As to the matter of the costs? Well I think that the Government should be quite clear that once that they have established an office in Brussels, and that is our aim, and we know they are reviewing the situation and from this side we are ready to play our part and we shall support the opening of an office in Brussels. Mainly for the political reasons that I stated in my main presentation. On the question of the possibility of obtaining the constituency, the Chief Minister or Mr Perez, said that we can only have that by the British relinquishing one of their seats or alternatively that Gibraltar be decolonised and we are accepted in our own right as Members of Europe, well, Mr Speaker, I do not think it is at all impossible. What would one seat for Gibraltar in the present circumstances make to the rest of Europe or to the number of seats in Europe? Would we tip the balance in the European Parliament in any way? I do not think so, Mr Speaker and I commend the motion to the House.

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

HON K B ANTHONY:

Mr Speaker, I have the honour to move the following motion standing in my name: "That this House condemns the Government for the state of uncleanliness and general neglect of the environment of Gibraltar, and calls upon the Government to state what steps they are prepared to take to reverse this state of affairs". Mr Speaker, when I tabled this motion I did it with a feeling of regret because no one likes to stand up in public and admit that he lives in a dirty litter laden community. No one relishes living in a neglected environment and no one gets any pleasure when their homeland is seen by outsiders as being dirty. No one likes or enjoys the adverse publicity when organisations, such as Green Peace, cause incidents that get us a bad press throughout Europe. Mr Speaker, these are facts about Gibraltar. We have a state of neglect that does not do us any credit and the people who must bear the responsibility for allowing this state of affairs to develop is the Government of the day. Responsibility for the cleanliness of the Rock is in the hands of the Government and the responsibility to discouraging the throwing of litter lies with the Government who have the power to apply the necessary legislation, if that is necessary, to discourage the dropping of litter. The preservation of our environment, Mr Speaker, especially with our limited greenery and in the flora and fauna that is particular to the Rock lies ultimately with the Government. Not with Committees or Organisations such as the Heritage Trust, but with the Government of the day. Without Governmental drive and initiative, without Government being the driving force in the constant battle against dirt and litter things become worse. And any cleanup campaign is bound to fail. It is on this count that I condemn the Government for doing too little too late. In my contribution, Mr Speaker, I intend to paint as clear a picture as I can of what the situation is and I am going to attempt to analyse why it has developed into such a sad situation. I am also going to make a few suggestions of the direction in which I believe that the Government should move towards finding a solution to the problem about dirt and neglect in the environment. I shall also be listening with interest to whatever is said from the Government benches about their plans to clean up Gibraltar. At the end of the day, Mr Speaker, I hope that a tentative blue print for the future betterment of Gibraltar will be elaborated for all to see. Mr Speaker, I enjoy walking and I often go for a walk around the Rock and it is a pity that Government Ministers do not follow suit because there is no better way to get a full picture of the accuracy of my words in this motion than to see the state of uncleanliness and general neglect to the environment of Gibraltar. Over the past six weeks whilst I have been walking and I have walked up the Rock and elsewhere and covered as much as I could on foot. I have been keeping my eyes open all the time and on every outing

I have found rubbish. I found it in unexpected places and I found it in places where rubbish should never have been. I am now going to list Mr Speaker, some of the things that I have seen with my own eyes. Not only have I seen it with my own eyes but I have even taken photographs which I can produce to this Honourable House, if necessary. Photographs that I have taken of rubbish around the Rock. I am going to start with the Cemetery since we will all end there, Mr Speaker. When I went to the cemetery it was weed ridden that is the only way to describe it. The more decent side was almost waist deep in weeds and bamboos that had not been cut. I found a pile of gravel lying at the side, there was a general air of neglect and not, Mr Speaker, because there were no workers. There were workmen there, they were weeding whilst I was there, but they appeared to be understaffed and it seemed to be a task that was too much for the few people that were available in the cemetery. Perhaps the establishment has fallen, I do not know, but there is a need for constant work because I believe that a cemetery is a place where we can go where there is an aura of peace if you like and it should be clean and it should be tidy. Many of our relatives are there those who passed on and it should be kept to a high standard and those Members of this Honourable House who have been to England and who have walked around the country church yards will know exactly what I mean. I have spoken of Eastern Beach so many times and I must say that the southern end of the beach to this present day is still covered with litter, rocks, broken bottles, tins and I believe that this could be cleared up in one sweep at the beginning of the season. It was not done and on the day when I went there, Mr Speaker, there were piles of rubbish in bags that had been piled up on the pavement and I had the impression that they had not been there for a minute or hours, they appeared to have been there for quite a while. Moving along Eastern Beach, Mr Speaker, to the southern rubbish tip, around this dump, and I use the word deliberately, I found old metal, chests of drawers, an old bath, cardboard boxes and even two or three old cars that were filled with cement. I do not think it was private building rubble although I stand to be corrected. Moving around to the tip off Europa on the eastern end, below Governor's Cottage Camp, I took a photograph on that day, Mr Speaker, and I have it here. It resembled more the burning gas of Bombay when I drove around there since there was dense smoke rising on the road and I had to reduce speed. I had to get out of my car and wait for the smoke to drop before I could get a photograph that was recognisable for what it was. A rubbish dip. Papers were scattered all along the roadway and there were piles of timber at the time that I was there and at the time when I took my photograph. There were also tourist buses travelling around the Rock and going by there and I do not think that this is conducive to good tourism. I know that the Minister of Tourism

is sitting opposite and smiling but even he must admit that it is not good for tourism to see that in Gibraltar. At the car tip there was a great big notice stating "No dumping of rubbish". But there was rubbish there piled up in front of the locked gates and inside of the enclosure. On to Camp Bay and again piles of rubbish that had not been collected and then we came, Mr Speaker, to the Alameda Gardens. The Alameda Gardens that I have known for many many years, the Gardens to which many of you in this Honourable House no doubt went as children and I am afraid that the general state of the Alameda Gardens is one of overall neglect. There were piles of weeds that had been cut and just dumped, not burned or taken away. Lots of tree trunks and branches lying around on the edge of the gardens, that again had just been piled, particularly on the South West corner. These have been there for a long time, so long that weeds were growing up between the branches and the cut trunks that were lying on the ground and the gutters around the buildings were weed infested. The Alameda Gardens, one would assume, would have flower-beds filled with flowers but we have flower-beds filled with weeds, filled with rubbish, filled with tin cans, filled with papers, in fact everything except flowers. I cannot honestly say that I saw one flower bed that was memorable. I next went on to the little bridge, Mr Speaker, above the small ornamental garden. At one time this had the Castle and Key set out in flowers and it had the name 'Alameda' in flowers. The word Alameda was there but it was completely untrimmed, you could barely recognise it for what it was, the Castle and Key, it was completely unrecognisable and overall it was an absolute disgrace. The Gazebo nearby had broken black plastic sheeting for its roof, it was covered with graffiti both on the woodwork, on the benches and also on the brickwork and one of the benches had its back wrenched completely off. Neglect again. A little further down there is a childrens' playground, Mr Speaker, and there is a little shelter at the entrance to the playground and there was a pile of rubbish and I took a photograph of it and it appeared to have been there for quite a while in fact I have the photograph here, the rubbish that has been there for quite a long while. In the Garden generally I saw empty soft drink cans, tins galore, papers, cartons. I do not think cleaners ever visit this garden and if they do it is very very few and far between. The overall impression was that nobody cared about this garden which was at one time one of the most pleasant places to visit in Gibraltar. With regard to the Trafalgar Cemetery I was going to criticise this place on the basis of the day I visited it but since then I have been back and I have seen that they have done a good job of cleaning the place up, though unfortunately vandals have again been at it and there were empty beer bottles lying on some of the graves that had recently been cleaned up. I really do not know what the answer to that one is, Mr Speaker. There were tourists outside the cemetery on the benches facing

the roadway and again two of these were broken and could not be used. Opposite the Trafalgar Cemetery, Mr Speaker, there are flower-beds in the centre of the road and had litter within them. The beds near the toilets were littered with soft drink cans, the ladies toilet sign was unrecognisable and I do not know how tourists are expected to recognise it for what it is because tree branches have been allowed to overgrow over the entrance. The gentlemen's toilet was lacking the men's sign there was only a little black man visible on the wall so I assume it is only for little black men to use. I am now going to go to the other end of the Rock, Mr Speaker. To Market Place and the bus shelter at the Market Place. If anybody cares to look around the rim of the bus shelter there are flower boxes all the way round but there are no flowers in them and if there were they would die because it is apparently never watered. Now, Mr speaker, what is the point of putting up flower boxes to make our community more attractive if we do not look after them. It does not make sense to me. I went into the little garden next to Smith Dorrien Bridge, Mr Speaker, I think they call it, the area where they play 'Petanca', this area was also littered with rubbish, there was a broken chair, a forty gallon oil drum lying in there and in one corner there was a disgusting pile of rubbish that was rotting. The Health Centre again has flower boxes along the front of the facade at first floor level, which contain geraniums and which certainly need more watering than they had had because they looked rather dishevelled. I then went to the Coach Park at Waterport and at the time I visited it, Mr Speaker, one litter bin at the junction was overflowing and rubbish was all over the floor. The assorted rubbish along the road included a forty gallon oil drum, whole pipes lying by the side of the road and this is the road that our tourists travel from the Coach Park into town and it appears not to be a very good invitation to Gibraltar. I must give full marks to the flower-beds outside Customs House which appear to be well looked after. I do not know whether it is done by the Customs Officers themselves as a matter of pride and that is why they were in good condition. Further on towards town on the right there is a long ditch parallel with the road and I suggest that Members on the Government benches have a look in that ditch sometime. It is overgrown, there is piles of rubbish, weeds growing through and all in all it is in an appalling state. I have a suspicion that this is one of our listed monuments, as part of our Defences, I am not certain about that, but I think it is. The road itself obviously has not been swept for a long long time because there was paper strewn around in front of parked cars and all I can say on that point, Mr Speaker, is that if I were one of the tourists visiting Gibraltar for the first time I would take one look and I would be very wary about wanting to come back again. On the Upper rock, I am going to be brief, Mr Speaker, I do not think there is one place on the Upper Rock, Queens Road, St Michael's Cave Road where if you

look over the wall you will not see tins, beer bottles and rubbish. Another point is the lack of toilets. This is part of the necessity that you need to help keep our environment clean. Even in the town area there are only two public toilets. At Europa Point there is a toilet that is so disgusting that even the bus drivers do not take their tourists to use it. There is a portaloos at the Upper Galleries which has not been put into commission yet. So tourists on the Upper Rock have to go to a private toilet behind St Michael's Cabin and which I have been assured is usually out of order two days out of three. I am quoting the words of drivers of tour buses, Mr Speaker. I do not think this is good enough because when we want tourists to come to Gibraltar and when you have tourists who have been travelling for two hours to get here and they transfer from coach to coach in our Coach Park and go for a tour of the Rock they are dying to go to the toilet and where do they go? It is a problem that must be faced because this is part of our environment, Mr Speaker, I do not exaggerate when I say that I have only skimmed the surface of this problem and if I had the time I could produce a list at least ten times as big. I would like to now turn to why I feel it is important to have a clean city and why I consider it to be important enough to bring to this House. It is important Mr Speaker, for three basic reasons. Firstly the bad image that we present to the tens of thousands of visitors who come here every year and it is a bad image. I am not exaggerating and the Government knows that I am not exaggerating when I say that the first criticism of any visitor to Gibraltar is the dirt and neglect. Tourists do not talk about buildings being unpainted and they do not complain about the high cost of going into tourists facilities. What they talk about is the dirt and the litter that exists. Secondly it is a health hazard. Dirt and rubbish left lying around in corners is a breeding ground for flies, cockroaches, rodents and everyheap of rubbish is a potential source of illness to ourselves, our families and our children. Therefore I think that that is a secondary point. The third reason is that I honestly believe that a clean litter free city which is kept neat and tidy produces a great sense of pride. If you have got a scruffy environment, people tend to say "what does it matter where I drop my litter". Well it does matter, Mr Speaker, and a clean environment goes a long way in making people think twice before dropping litter or discarding objects such as old batteries etc around every corner of the Rock. There is a fourth possibility that I also believe is more than a possibility, Mr Speaker, a clean, tidy rubbish free city and environment could be a great incentive to go beyond a simple cleaning-up programme. Property owners could well start on a programme of beautifying their properties. If there is a nice clean embellished area, they may want to do this. Estates might set out to become more attractive than others, Moorish Castle versus Varyl Begg if you like. That is a

possibility. There is so much that we could achieve once, Mr Speaker, we get the ball rolling in our campaign to make Gibraltar the gem of the Western Mediterranean. Now Mr Speaker, one of the two problems that I have been wracking over is, firstly "who is responsible for dropping rubbish and the second thing I ask myself is "why rubbish is scattered around like confetti after a wedding"? The answer is that everyone is responsible, visitors drop their sandwich wrappers, children their sweet and ice cream wrappers, adults their cigarette packets and I am absolutely amazed at the number of soft drink cans that are scattered around the Rock. I get the impression, Mr Speaker, that every adult going out buys a can of soft drink, drinks it and throws it on the floor. There are literally thousands of soft drink cans around the Rock. In fact I have a perfectly true story, Mr Speaker. I saw two young teenage girls sitting on one of these large brown rubbish cans and they were drinking out of a can and they threw it over their shoulders on the road where I was standing with my dog much to my annoyance. But the point I am making is that they were sitting on a litter bin and they did not bother to put it in the litter bin. That is what puzzled me, Mr Speaker. There is an excellent PWD Service which picks up bulky household refuse at no charge. I know because I have used it. It is an excellent service and yet I have seen items ranging from mattresses to furniture dumped on street corners. This is done usually at night when all it would take is one phonecall for a free collection service. Now why should this be, Mr Speaker, why do people drop litter? I do not believe that it is laziness or disregard for the environment, I really believe it is an unconscious reaction. It could be, Mr Speaker, that there are not enough litter bins in Gibraltar and I do not know how many of them there are but the numbers must run in their hundreds and perhaps we need thousands rather than hundreds. If this is the case so be it, Mr Speaker, let us get thousands of litter bins if that is what is needed. However, litter bins are only useful if they follow two basic criteria. They must be very noticeable so that when people look for a litter bin they see it and we have litter bins that are described as sandy colour mounted on the city walls with which they merge. It may not have been done deliberately but it is not the way to get people to use them because they need to be seen. Children, for example, could well be trained to use those large animal litter bins that they have in the UK. They must also be emptied regularly and must not be allowed to overflow with the rubbish ending on the ground. So the answer, Mr Speaker, is simple, have lots of brightly coloured bins that are emptied regularly. If necessary twice or even three times a day. I would also like to see the introduction of bottle banks because broken glass is a hazard for anybody, particularly children, so I would like to see bottle banks. Mr Speaker, I have been critical of the amount of litter and the poor environment but now a word of praise. A word of praise

for the Cleansing Department workers. Most of them, Mr Speaker, work very well without supervision and some deserve a special mention. I am going to give one worker a very special mention. He is a gentleman, I do not know his name, who cleans Europa Road. I have gone up Europa Road myself, Mr Speaker, in the early morning, in the dark in the winter, and I have nearly run this poor chap down because he is busy sweeping the road in the dark. He is an exemplary example of what can be done with personal integrity. He works without supervision and that is important. I have seen other men who sweep our roads and I think most of them are working very well. They are doing as much as they can during their working hours and possibly the Department is understaffed. Again I do not know the answer to this but whatever is the case the Government are the people who should find a solution so that our streets, our alleys, our pathways, our steps are cleaned. I must also praise, Mr Speaker, some of the workers in the Gardening Section. I went down by Casemates about six weeks ago and I saw a young man on his knees planting what I believe were petunias and he was planting them in a nice flower-bed parallel with the pavement and he was taking a great pride in his work and I stood and watched him. Unfortunately the next day there were more cans and more bits of paper on his flower-bed and although he is a hard worker and I am sure there are many many more his good work was immediately ruined. I do not know if the Gardening Section is understaffed but I do not think there is a need for highly skilled gardeners to do some of the work in our gardens and our shrubbery around the Rock. I think that what is needed is the trimming of bushes and getting a rake and clean up the rubbish around the base of the bushes. This does not require a highly skilled person and I think that this could be quite easily done by some of our less skilled workers. With regard to our beaches one hopes that by next summer we will have clean beaches although it surprises me why the Government does not consider seriously buying a beach cleaning roller which could be towed across the beach either late at night or early in the morning so that it is ready for the next day. I know that in a previous question in this House I mentioned the Refuse Section and the Honourable Minister for Government Services said that a bailing machine would be expensive but I do think we need a bailing machine, Mr Speaker, to get rid of some of the metal that is scattered around the Rock. On our litter laws I have an open mind. I have had a number of people come up to me since I tabled this motion who have said "We should do this and we should do that". I have heard of the draconian standards of Singapore where if you throw a cigarette end you are fined something like 500 dollars on the spot. I think that is going over the top. If we are to employ Litter Wardens I would not like to see them have the power of our Traffic Wardens at the moment. I would like them to follow the example of the City of Westminster which is renowned for being

a clean City. There they have Litter Wardens but these Litter Wardens are instructed that if they see somebody dropping litter they should say "Excuse me Sir you have dropped litter would you put it in the bin" ie they are given a warning. If the person says no then they are summoned and fined. I think that this may be a step in the right direction. Embarrass people or remind them that they have dropped litter. Because as I have said earlier, Mr Speaker, a lot of those persons dropping litter do it sub-consciously. You come to the end of a packet of cigarettes and you throw it and you do not think about it. I think that might be a step in the right direction. I believe that a campaign through the media, through car stickers, etc to make the people in our community more aware of the problem. Perhaps pamphlets could be handed out to our visitors when they arrive saying "Please keep Gibraltar tidy". This might be a step in the right direction. I would also like to see shopkeepers being made responsible for their shop frontage and they should keep it clean. This is done in such places as Germany and it works. Certainly our Take-away Food Shops who are getting a very adverse reputation for the amount of litter that they contribute to their areas and which is scattered all over should be made responsible for its cleaning. Another approach to cleaning up, that I thought as well, is being done already, the clearing up of derelict cars and the blitzing of an area. Maybe if they should send in a team and clean up an area thoroughly and then maintain it clean it might be a step forward. I do not know if it would work but it is a possibility. Mr Speaker, I do not want to keep harping on this much longer but I have a lot of other points that I could make but I think I have put over my ideas through this motion. Mr Speaker a little earlier, in the previous motion, this side of the House was accused of lack of integrity and trying to score political points. Well, Mr Speaker, on the lack of integrity it is for people to make up their own mind about me and whether I am making political points or not Sir. The object of this motion is that I live here and I want a clean community and I believe only the Government has the power to take the necessary steps to put things right. If we could do it from this side we would do so but we cannot since we do not have the power. So let the people see that once again Gibraltar can be attractive and let us get rid of our rubbish and let us make our paths, our gardens, our cemeteries and our flower-beds clean and beautiful again. Let us get them tidied up and let us make a concerted attempt to clean Gibraltar up Mr Speaker. Let us make it the pride of the Mediterranean and be renowned for its beauty and its cleanliness. Mr Speaker, I commend my motion to the House.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon K B Anthony.

HON J C PEREZ:

Mr Speaker, I could go through the details that the Honourable Member has raised and perhaps give him an explanation here and an explanation there but I do not think that that is the proper procedure particularly since the Honourable Member has put down a censure motion. The Hon Member has very ably censured the Government and he himself has expanded on the problem that we have in cleaning our community. The Honourable Member is right we have put up bins here and there and people tend to continue, particularly tourists in the Upper Rock, to throw their cans down the rock rather than in the bins. The bins are frequently emptied and we have taken measures in different areas. We have improved the service as the Honourable Member knows for the removal of furniture and people continue to put the furniture out. I was surprised myself, I can tell you, to learn the amount of refuse that Gibraltar disposes of on a regular basis. But yes, Gibraltar has a refuse problem we do not doubt it and we have never turned our backs on it. There has been a vast improvement in the resources, particularly considering the problem that we face and we still face with the incinerator, Mr Speaker. Refuse disposal is one of the basic keys to the problem that we face and as I have said on numerous occasions in this House when we took up office we found the Incinerator in a very bad condition. It was in very dire need of repair and we found that rubbish was being dumped into the sea and we have had to continue with that practice. We have had to spend £300,000 on repairs to the Incinerator and we have had to set in motion arrangements to consider ways of disposing of our rubbish in the future. However in the meantime yes as the Honourable Member has said Green Peace has come to Gibraltar and it is very ugly to have a rubbish mountain, I agree with the Hon Member completely but that mountain is a joint venture because part of that mountain was theirs and the other part is ours. We did not start that mountain but when we came into office they had another mountain by the Coach Park at Waterport and that was eliminated within six to eight weeks of us coming into office. I am not saying "look the AACR were more dirty than the GSLP". That is not the answer. There is a very great problem of social consciousness in Gibraltar, Mr Speaker, and the Honourable Member has mentioned sites which I know are cleaned regularly and within half an hour people have dumped again and the Honourable Member cannot condemn the Government for that and I am afraid I cannot take the responsibility for what individual citizens do all the time. So I am afraid, Mr Speaker, that I can prove to the Honourable Member that a great effort has gone into cleansing and I can prove to the Honourable Member the hard work which, as he has said, the people in the Cleansing Section are doing. We found when we came into Government the difficult circumstances that we had to face with the burning of

wood. There were no facilities for burning and we had to burn it in the open air. That creates an unsightly area and alternatives have been looked at already. Alternatives in the shortterm and alternatives for the long-term because you cannot have wood burning in the open for ever more and alternatives are being looked at. We have had, as I have said, problems of a serious nature with the incinerator. In my first trip around the Rock which I took fifteen months ago with my Honourable Colleague well before the Honourable Member opposite did.....

HON K B ANTHONY:

I have never gone round the Rock with any Member of the Government.

HON J C PEREZ:

No, Mr Speaker, I went with Mr Pilcher, fifteen months before the Honourable Member did. At the time there was even a fridge dumped in the Upper Rock as well as the cans and everything else and a lot was cleaned at the time, Mr Speaker. We took over a very dirty Gibraltar and the fact that it is a bit cleaner now has been an up-hill struggle because it is a vast problem and also the fact that the services that are provided are not used properly by the general public. I agree with the Hon Member that we have to educate people more to be cleanness conscious. But what we cannot do of course is educate the 4 million tourists that come into Gibraltar every year. Because instead of spending money in Gibraltar we would have to have them all in school. The increase in cans, crisps packets, ice-cream and chocolate wrappers and everything like that is the direct result of the increase in tourists. The Honourable Member talked about Litter Wardens in the City of Westminster. Well I am sorry to disappoint him because it is not working. Mrs Thatcher herself had to launch a campaign against litter with her picking up litter as part of the campaign in a park in the City of Westminster. These publicity campaigns are initiated in different cities to try and make the public more aware of the problem of litter. However our litter problem is also imported and no matter how many public relations exercises you do and however great an effort is made, at the end of the day there is a different tourist coming in daily. You may manage to educate one but when he leaves a different one comes in. Much of the problem is that and that is why we have a particular difficulty in the summer with the added problem that personnel go on leave and absenteeism tends to increase during summer and consequently we have less resources in the summer when they are needed most. There were however less resources before and we have employed, since we came into office, fourteen extra sweeper/flushers and as a result have managed to increase flushing by 100%. In conjunction with the Police Traffic Section we have started

a programme of cleaning whole areas at a time. However unfortunately 24 hours later and I do not know how it is managed, even derelict cars are again present. I suspect that people actually move them. One simple example, Mr Speaker. The area of the Cemetery, where even the television crews were present we hosed the area down, swept and cleared away the vehicles and everything else, well within fortyeight hours the area was in practically the same state as when we found it before the cleaning and our resources are not inexhaustable. The resources are exhaustable and however much resources you put in there is a limit to the amount of things you can do. However I can tell the Hon Member that one of the basic things that has been insisted on in this programme is that the major housing estates, ie Moorish Castle, Varyl Begg, Glacis and Laguna are hosed down at least twice a year in this programme. So yes there has been increased expenditure on the part of Refuse Disposal but we are still faced with a serious problem. The Government is already looking at alternatives for the future but it takes time to consider options etc. We have quite an efficient system now and the Honourable Member I am sure will listen to less complaints about sweeping than he used to listen before we came into office particularly because we are flushing as well. And yes, Mr Speaker, the Collection System is working very well, although we are experiencing some difficulties with the Refuse Collection in some areas which are not collected very regularly but we are tackling this at the moment directly with the men and with the Union. The increase in the number of houses is a point which they have taken us to task about and we are looking into that area. But it is a sensitive area and I would not like to divulge solutions but yes there is a problem and we are not negating that there is one. The Government spends nearly £2m a year on cleansing. And if the Honourable Member is right in saying, and I have no reason to doubt him, that everybody is doing a fair days work and everybody is doing their utmost to keep Gibraltar clean and £2m is being spent, most of it in wages, then I am afraid I have to come back and say the major problem is to create an awareness in the people. At the same time I have to say that the greatest problem we have got is the visitor and that you cannot create an awareness in a visitor and I would be very reluctant to have Litter Wardens, as the Honourable Member said, fining people on the spot because I think it would be a source of great controversy in Gibraltar. We cannot have 4 million tourists coming in and fine half of them because that would really kill the day-tripper. So yes, if we have to have a tourist industry of this nature and which is the day-tripper and the masses arriving in coaches and everything else then I am afraid we will have to put up with a lot of things. I agree with the Honourable Member that there are areas of improvement and a lot of the improvements have not been affected this year because we have had a very big Road Resurfacing

Programme as well as a very big parking problem which has hindered the cleaning of Gibraltar. Cars are parked everywhere and it is best to clean when the streets are cleared of cars and then you can actually sweep and hose down and use all those machines that are used everywhere else which just pass through and collect the rubbish. I have been looking at all sorts of machines in France when I was there recently, I had a look at the machinery and equipment in Paris and I can tell the Honourable Member that most of the problem of using this equipment in our streets is our parking and traffic problems. This equipment is used at peak times in avenues where you can actually divert traffic from one place to the other and the machine goes through and clears the streets immediately or early in the morning. I am afraid that the traffic congestion in Gibraltar is such that a lot of this equipment would not work here. One of the things the Honourable Member mentioned for the beaches was these rollers that they use up the coast to clean the sand, however the mechanical advice we have from the Department is that they would not be any good. They have been tried before and the sand in Gibraltar contains a large element of rock and that the rocks get into the system and breaks the machines. We have used bulldozers which we used it at the beginning of the summer and the situation is that there is still some stone and wood at the southern end of Eastern Beach as the Honourable Member has said. But however much you remove, I do not know how it happens or why, but the situation continues the same. However, it is regrettable that the Honourable Member should have brought a censure motion. I think the Honourable Member should perhaps have said that he was concerned about the matter the same as we are, because I am concerned about the matter, and I might have been able to tell him yes, we are looking into the matter and trying to create public awareness and trying to overcome the parking problem as I have said. However since the Honourable Member has decided to censure the Government we are obviously going to vote against the motion although we are not saying that Gibraltar does not have a problem because Government does have a serious refuse problem. What we are saying is that there has been an improvement, that the Government is not satisfied with the improvement, as I have said in answer to Question No.17 of 1989 from the Honourable Mr Featherstone. I said "the level of cleanliness in Gibraltar has improved since the 24 March but that does not mean that the Government is satisfied with the level of cleanliness as it is at the moment but it is certainly much better than what it was" and I continue to insist on that. It has to be much better because more resources have been provided and because there is a concerted programme of flushing and cleaning which was not there before. And because quite apart from the fact that flushing has increased by 100%, we have fourteen more sweepers and we can cover the areas better. The personnel has been reorganised and the areas better covered and a lot of

the rubbish that we took over when we came into Government has been cleaned. The matter needs to be looked into further and the Government is constantly looking at ways of trying to alleviate the problem but always bearing in mind that we have already spent £2m and we cannot continue to spend and spend and spend because you never see the end of it, Mr Speaker. We are looking into how best to use the resources that we have and also looking at new machinery and looking at the time when different parking arrangements can be made and looking at the time by September or October when the resurfacing programme will have been completed and we shall have a further improvement and we shall look indeed at the whole concept of the cleanliness of Gibraltar in that light. I would like to add before I finish, Mr Speaker, that although I accept that the Honourable Member is a new Member and therefore not responsible for what happened in the past, I think he should, as a matter of fact, because he belongs to the party that was previously in Government, he should not shy away from the responsibility of how the AACR left the cleanliness and refuse problem. It was in a dire situation, Mr Speaker, and improvements have been made and we are looking at improvements for the future and we hope to have a cleaner Gibraltar by the end of our term in office. We shall certainly try to do so before that but certainly by the end of our term in office we hope to have proved to Honourable Members opposite and to the people of Gibraltar, at large, that we can not only clean Gibraltar better, but that we can keep it clean, which is the main problem. It is not difficult to clean Gibraltar but it is difficult to keep it clean and to make people aware. The dumping sites are continuously cleared and continuously dirty because you get people putting out more and more stuff. I would not say like the Honourable Mr Featherstone used to say on more than one occasion that Gibraltarians are a dirty lot. But certainly that the people at large are less consciously aware of environmental issues is true and yes I agree we will have to do a bit of educating. The Tourist Office has already started that doing some campaigning but as I have said before a lot of the problem in the summer is imported and that I am afraid you cannot do anything about it. Thank you Mr Speaker.

HON LT COL E M BRITTO:

Mr Speaker, the Honourable Minister throughout his contribution has highlighted one or two points. Firstly, that the number of the areas mentioned by my Honourable colleague were cleaned regularly and yet they were dirty half an hour later and he has attributed the greater part of the fault to tourists during the summer months, imported, I think he called it. He has defended the Government's position by saying that there has been an increase in staff and an increase in cleaners and that there is an on-going effort to improve the situation. Mr Speaker,

I am going to narrow my contribution on the motion to the effect on my responsibility as a spokesman for Housing and the effects that is having on two particular areas of Housing. I have mentioned the things the Minister has said because none of the arguments that he has used apply to the points that I am going to highlight. And I am going to concentrate purely on two points which are of great detriment to the environment and to public health of the people in the area. The first one is the state of the toilets and the showers in the communal block at the Philippino Hostel. I know that the Minister for Housing is on record as saying last week in the Gibraltar Chronicle has been "that within a month of coming into office those toilets has been replaced and that subsequently they had been damaged again and that they were replaced on a second occasion". I therefore have to assume that at the same time that they were replaced, that the communal toilets and showers were cleaned out. Well, Mr Speaker, I saw those toilets sometime last week before a certain article appeared in the Gibraltar Chronicle and I must say that I have never in my life seen anything more disgusting or more dirty or a greater danger to public health than those toilets in the Philippino Hostel. I think it is of no defence for the Government or for the Minister to say that and I quote "that the toilets were replaced". Mr Baldachino is quoted in the Chronicle as saying that one of the first decisions that he took when the GSLP were elected into Government was to install new toilets and after a month they had been smashed and were again in a filthy condition. Mr Baldachino said a second set of toilets had been installed and had encountered the same fate. He added that Government was not going to be indefinitely furnishing the hostel with toilets if these were not properly looked after. Mr Speaker, whoever's responsibility it is whether it is the tenants, the Government's or anybody else's, those toilets are in such a state that they cannot be left as they are. The Public Health Department has I understand been there although I have not been able to confirm this. I cannot believe that if they had been there they would not have closed off the area. Those toilets and they were pictured very graphically in the Chronicle are over-flowing with dark black shit and there is not other word for it, if you will excuse the language Mr Speaker. They are broken and leaking and the floors are flooded. There are rats, dead rats, lying on the floor and these are toilets and showers that are supposed to be used by the inhabitants of the area. There is such an indescribable and sickening stench that permeates into an area all the way around that people near the toilets and near the showers have to close the windows of their houses because the smell is so unbearable. Now I do not care whether it is the tenants' or the Government's responsibility but those out-houses especially because they are used by a very small number or hardly at all should either be condemned and closed or alternative facilities provided. It is

something that either the Public Health or the Government should look into and take some action. It is no good saying that the tenants are responsible and it is no good saying that people should look after it. The state in which they are is a disgrace to Gibraltar and a danger to health and something should be done about it. Secondly I will quote again from the Chronicle on the question of the invasion of rats in the area. A Mr Martin is quoted as saying that on more than one occasion he has switched on his kitchen light and seen rats eating the food. Another neighbour, a Mr Parody, has said that rats had eaten through the cardboard of a powdered milk box and even through the plastic of the individual tins to get at the powdered milk. Another tenant, a Mr Cornelio, said "we are overrun by them and that neighbours had seen dead rats dropping under their beds". The terrible conditions in this place are beyond description and in fairness the Health Department is quoted as having implemented rodent control measures in the area but these are said to be proving ineffective after a few weeks when the rats return. This sort of situation, Mr Speaker, cannot just be left pending indefinitely. If it is true that the rats return within two weeks in these staggering and frightening numbers then something has to be done on a daily or weekly basis. However this is something that is not being cured by greater increases in staff and increases in cleaners. This is not attributable to the number of tourists coming in. This area is not being cleaned regularly. This is an on-going situation that needs to be looked at as a matter of urgency and something needs to be done quickly. The one worrying aspect, and I ask the Minister to disclaim this, is the fear or the feeling expressed to me by residents in the area that because the Government, and I am not quarrelling with them, wants to clear the area and demolish the whole hostel and move the people elsewhere, and apparently there is some resistance because there are some people who either do not want to be moved or who do not want to be moved where the Minister wants to move them, and I sympathise with this problem. But there is a feeling, and I stand to be told that it is wrong, at least I hope that it is wrong, there is a feeling that there is a deliberate "policy" of not doing too much in clearing out the rats or cleaning out the toilets so that people are encouraged to move. At least this is the feeling amongst the residents. The second point I want to cover and I am sorry to see that the Minister for Government Services is not in the Chamber because it affects him directly is the refuse collection at the Vineyard's Housing Estate. This again is not one of the areas that they clean regularly Mr Speaker, because I am reliably informed by the Management Committee of the Estate that there is an on-going problem with the collection of rubbish dating back to November of last year. That rubbish is not being collected on a daily basis and is not even being collected on a regular basis. It needs the prompting and complaining of the Members of the Management Committee for the rubbish collection

vehicle to come into the Estate and collect the refuse. There is, Mr Speaker, the ridiculous situation where residents of the Estate have to daily take their rubbish bags in their private cars to their place of work and dispose of the rubbish there because otherwise the rubbish would pile up in the Estate. Let me say straightaway, Mr Speaker, that we are not talking about rubbish like mattresses or old refrigerators. We are talking about daily refuse which has been put into the refuse bins provided. It is these plastic bags that are being taken by residents to their place of work because they are not being collected. I assume that it has something to do with the trouble referred to by the Minister towards the end of his contribution on the difficulties with the refuse collectors. If this is so all I can say is that it dates back to November and that it is a problem of health and it is a problem that should be resolved quickly. We have heard nothing about it and one must presume from what one hears from the residents that it is not apparently being tackled with any degree of urgency. Maybe because the residents themselves are disposing of the rubbish. And finally.....

HON J C PEREZ:

Mr Speaker, Vineyards and another area are the places to which I referred in connection with my reference to the Refuse Collectors. It has not been as serious at the beginning as it is at the moment and we are actually trying to resolve the matter with the people concerned. The Management Committee of Vineyard have been informed of the situation and that we are trying to resolve the matter but it is the Vineyards and the Casemates Hostel which are most affected. Mr Speaker, some weeks there is no problem and then on others the collection is not carried out as regularly as it should be. I honestly think that the least said the better in order to try and resolve the problem. Because if one starts discussing the matter here then the problem gets bigger and since we are talking to the people concerned I hope that we may resolve the matter quickly.

HON LT COL E M BRITTO:

Mr Speaker, the only thing that I would add to that is that the Minister says that the Vineyards Management Committee are aware of the problem and I see he is aware that they wrote to him in, and I have a copy of the letter here, in late May last year and they are still awaiting a reply. So according to my information they have certainly not been made aware as to what the problem is. What I can certainly say is that I took the trouble of finding out whether the neighbouring Rosia Dale Estate had any similar problems and I was told that they did not and since it is the same vehicle and people who collect the

refuse from both areas I presume that the problem must be fairly localised. All I can say, Mr Speaker, is that the residents of Vineyards do not seem to be very confident that the problem is going to be solved in the immediate future as the Minister has just said. Because presumably if he took any positive action or pressurised the people concerned that could probably spark off a general strike in Gibraltar.

HON J C PEREZ:

I did not say that, Mr Speaker. Why deteriorate the situation further? The matter is at present being considered and discussed and the Hon Member should know by now that once there is an industrial problem we believe that the least said about it the better and we try to resolve problems like that. Once it is resolved then the Honourable Member can judge whether the solution is the right one or not but at the moment the least said the better at this stage.

HON LT COL E M BRITTO:

I accept the Minister's point, Mr Speaker, I would not want him to disclose any details which might prejudice the negotiations but all I can say is that he knows from the letter sent by the residents of Vineyards that they are fast losing their patience and arguing that they should have the extra expenses involved in the disposing of their rubbish. Apart from having to dispose of their rubbish in their own cars, they are also having to pay overtime to cleaners to come in to clean the refuse areas. I will not labour the point apart from saying that this is something that cannot be attributed either to the past or to action already having been taken. Finally all I would say, Mr Speaker, is that I was watching the Government benches as my Honourable Colleague was making his contribution, especially as he was going to fairly great pains to detail fairly minutely the individual areas and giving all the information on how bad the litter and other associated problems were in different areas and what struck me, as maybe, indicative of the overall state of affairs was the lack of interest that Members on the Government benches seemed to be paying to his contribution. They seemed to be more interested in talking amongst themselves than in making some notes of the areas affected. That is all Mr Speaker.

HON J L BALDACHINO:

Mr Speaker, I have to take up the points raised by the Honourable Col Britto about North Gorge. First of all, Mr Speaker, North Gorge was a hostel and it was converted into something to which is it totally unsuitable by the AACR administration. If he had seen the state of the toilets and the muck and shit, as he put it, before the

28 March, Mr Speaker, then he wouldn't have been very surprised at the state that they are in now and shown in the Chronicle. Because their present state is nowhere compared to what it was at that time. I have also visited North Gorge, Mr Speaker, prior to the election and after the election and as a matter of fact since being elected I have been there more than five or six times. As for the three names that the Hon Member has mentioned and which were also in the Chronicle as the persons that are complaining, and which are the occupants of the top block of North Gorge which have communal toilets and showers, and what I can tell the Honourable Member is that I have gone into great pains to make the inadequate facilities that do exist in North Gorge, and which I am not denying, more suitable for their needs. But what I cannot have, and what the Government cannot have, Mr Speaker, is that the moment that we provide new toilets and we clean the area that people start vandalising them in the way that the picture in the Chronicle shows. Because if you look at the picture in the Chronicle you will see that the toilet is a fairly new toilet and therefore, Mr Speaker, when the Hon Member says that the Government is trying to pressurise people by not doing anything that is totally incorrect. I know that the Honourable Member says that he went last week and he saw the toilets but he should have gone the week before. Because the week before I had sent the Warden to North Gorge to clean the toilets out and they were clean the week before he went there. Yes they were, Mr Speaker, because they called me at my home and they said that the toilets had become blocked Mr Speaker. The system is connected to the MOD system and because the MOD infrastructure is different to ours they sometimes become blocked when the pump is stopped. I therefore gave instructions for the toilets to be unblocked and they were by the Emergency Section, unless they are lying to me. I will however find out if they are lying. I will now give way to the Honourable Member, Mr Speaker.

HON K B ANTHONY:

Thank you very much Mr Speaker. I did in fact go to North Gorge the week previously and I have not entered into the North Gorge controversy because I am more concerned with the overall environment than housing in particular but I can assure the Honourable Minister that the previous week the toilets were blocked and there was broken brickwork and the pans were broken and they were no better or no worse than they were last week when my Honourable colleague went there.

HON LT COL E M BRITTO:

If the Honourable Minister will give way, Mr Speaker, I think there might, be some slight confusion in the Minister's mind as to what I said. When I quoted from

the Chronicle and I quoted the names in the Chronicle I was referring to the problems of the rats. When I was talking about the communal toilets and the Minister has referred to these three gentlemen as living in the top Block, I was referring in particular to the middle Block, Block No.2. All I can say is that if by any remote possibility the Cleansing Section had been there before me the state would have been so impossible before that it is just unbelievable. There is no way that it could have been cleared before and the picture in the Chronicle, if anything, is by comparison clean to what I saw. I mean here there is a bolt on the toilet at the back of the bowl and the toilet looks in one piece. The toilets that I saw were virtually without exception without wooden boards or any kind, broken and overflowing in solid whatever it is.

HON J L BALDACHINO:

I understand that, Mr Speaker, but what I am telling the Honourable Member is that we changed all the toilets in North Gorge and they have been vandalised and what the Honourable Member cannot expect is that the Housing Department everytime that the toilets are vandalised should be immediately fixed. Because this is something that is for their own personal use and therefore they should be looking after them and see that they are not vandalised. Mr Speaker, the idea of North Gorge being used as residential accommodation is totally out of this world, it is crazy, it does not have the commodities for that sort of thing and therefore to have originally converted what was a hostel into residential accommodation with communal toilets that were supposedly for single persons and are now used for whole families is totally out of this world and what I have said is that this Government's objective is to remove everybody from North Gorge. We have to start somewhere and I have already removed three families. Therefore the decanting procedures that should have been carried out a long time ago, because North Gorge was not built today, it was built twenty years ago. My Department is doing its utmost to keep the place clean but it is up to the tenants to also keep it clean. There are tenants who have their toilets inside and I have even looked at the possibility of removing the communal toilets and putting toilets inside the top Block because that is the Block that is most affected, but it is impossible to do so, I am told, due to the fact that it has not got the grading to carry out to the drains. So therefore it cannot be done, but I have even gone as far as that. Some people living at North Gorge have been there for more than nine years or ten years and what I am trying to do is to offer them a pre-fab when they are completed but whether they accept or whether they do not accept they are not going to be forced to accept. Neither am I

going to force them in any other way so that they accept. But they must understand and I have already explained to them that the situation that exists in North Gorge with the toilets because sometimes the pumps do not work and they are connected to the drainage of the MOD is difficult to resolve. Mr Speaker, I will even send another team to clean the place up and then I will invite the Honourable Member to go up there so that he can have a look at what has been done. I will then invite him again in two or three weeks time so that he can see the state they are in again. I am willing to do that. I am willing to go as far as that.

HON LT COL E M BRITTO:

If the Honourable Member will give way. I accept the Honourable Minister's position on the suitability of the buildings for families as opposed to single people but the point that I am trying to make and I have tried to make from the beginning Mr Speaker, is that these toilets and these showers are used by a very small minority of the people in the Estate if I can call it that for a want of a better word. Therefore the sense of pride or of cleanliness or effort or whatever, of responsibility or whatever one wants to call, it can only be attributed to a small number of residents. The only possible solution is to limit the use of those communal facilities and access to those communal facilities to the people who really need them because the majority of them have their own facilities within their houses. Then if the Minister cleans them out and he goes in a week or two weeks or a month later and finds them in a bad state then he can fault the keyholders. But what is not acceptable from a public health point of view or from a Gibraltar point of view is that we should shrug our shoulders and look the other way and say there is nothing we can do about it because the people of the area are not looking after them properly. There is a health problem.....

HON J L BALDACHINO:

I have not said that, Mr Speaker. I wish to clarify something. What the Honourable Member has said is what happens in North Gorge that people do have their own toilets and they even have their own keys but some of them have their doors and locks broken. But I will do it again, Mr Speaker, and when I clean the toilets and when the toilets are done up I will call the Chronicle in and they can take their photograph. Then when the toilets are back to the state that they are in now I will call them again and they can take another photograph. Now coming back to the Estate, Mr Speaker, because something was said about the cleaning. Prior to my coming into office the roads and pavements in the Estates were only swept they were not flushed because they did not have flushers. Under a new wardens structure the Estates are now being flushed. So therefore that is another improvement in the cleaning of the Estates, Mr Speaker.

HON M K FEATHERSTONE:

Mr Speaker, when I was Minister of Public Works, I undertook perhaps the first Joint Venture that we ever had with the Shell Company of Gibraltar to build and get functioning the fountain at the Piazza. The Shell Company put in a fair amount of money and the PWD put the rest and promised to keep the fountain in decent condition and working satisfactorily. This unfortunately over the past eighteen months has not been the case. The fountain seems to be the receptacle for all ice-cream cartons, coca cola cans, cigarette ends and anything that people have to throw away. The water does not run and whatever water there is is smelly and stagnant and it is a disgrace that this item which should be a show piece in the centre of our city should be left so derelict and in such a bad state. I was interested to read only recently in a letter from a former Minister of Public Works on the same subject and she said that did not seem so difficult to be able to keep such a small fountain, as an amenity, working properly for those people using the Piazza. I wonder whether the Public Works can once again get that fountain working sensibly. It does not take very much to keep it reasonably clean, to keep the water flowing and to make this one of the beauty spots of Gibraltar. At the moment it is a derelict and an eyesore and I feel it is a disgrace which the tourist must frown upon very considerably.

MR SPEAKER:

If there are no other speakers, I will then call on the Mover to reply.

HON K B ANTHONY:

Thank you, Mr Speaker. Mr Speaker, I have listened carefully to the contributions that have been made in answer to my motion. The Honourable Minister spoke of the social consciousness of people of Gibraltar. I have a similar phrase, civic pride. I think it is something that we need to restore. The civic pride, the awareness of where they live and how clean it could be. We all know that inside every front door of every flat and of every house you will find a clean house and a clean flat and I would like to see that extended out into our streets, our alleys and our environment. I do not think it is an impossible task and the Honourable Minister mentioned cleaning and re-dumping within twentyfour hours or even less. It all comes back to what I suggested in my initial contribution that I feel that the Litter Laws and Litter Wardens should be seriously considered and legislation enacted if necessary. I did not say that there should be on the spot fines in my contribution. I said that in the City of Westminster Litter Wardens warned people if they saw them throwing rubbish and only if they refused to pick up what they had thrown were they issued with

a summons. They do not fine on the spot. It is a case really of embarrassing people into picking up their rubbish. Public awareness is possibly the root of this whole problem and there is a need to re-educate people. I suggested that one way forward could be a publicity campaign by TV, Radio, Press, Car Stickers or whatever and I hope that that would be seriously considered by the Members opposite. When the Honourable Minister said that we cannot re-educate tourists then perhaps he did not hear what I said. I believe he was talking to one of his colleagues at the time when I said that it might be an idea if we issued every tourist whether they came by coach or by car with a little pamphlet saying "Throwing litter is an offence within the environment of Gibraltar. Do not throw litter. Use the litter bins". Print that in several languages and it might be a step forward. It would not cost a lot and it would be a step forward to that clean Gibraltar which we all want.

HON J C PEREZ:

They would then throw that leaflet to the floor, Mr Speaker.

HON K B ANTHONY:

Then get our Litter Wardens to say to them to pick it up or take a summons. The Minister mentioned the Beach Roller and said that this would not work because of the rocks and perhaps if we do ever get newly dredged clean sand onto our beaches then we could use it because there would no longer be any rocks in it. That is something for the Minister to think seriously about. But what has impressed me, Mr Speaker, is that although the Minister has said that they are going to vote against my motion because they regard it as a motion of censure, the underlying fact is that all Members of the Government bench are aware of the social problem that we all face and I think that although the motion is going to be defeated we are all united in this House in one intent and that is that we want a clean Gibraltar. I believe that the trend can be reversed. I cannot believe that it cannot be reversed because we all want to see a clean tidy Gibraltar. I live here and that is what I want. I commend my motion, Mr Speaker.

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

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 Members voted against:

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

The following Hon Members abstained:

The Hon J H Bautista
The Hon E Thistlethwaite

The Motion was accordingly defeated.

HON A J CANEPA:

Mr Speaker, I have the honour to move in the terms of a motion standing in my name:

"This House condemns

- (1) The infringement of British Sovereign territory by armed Spanish Customs Officers, who landed at Eastern Beach on the 30 June 1989;
- (2) The decision by the Spanish Government instructing the Customs Officers not to recognise the jurisdiction of the Gibraltar Courts,

and urges the British Government to lodge a protest note with the Spanish Government over the incident".

Mr Speaker, since I gave notice of the motion, we have also given notice of our intention that my colleague, the Honourable Mr Peter Montegriffo, will move an amendment in order to insert an additional sub-paragraph that will up-date this motion. Because by the date when I gave notice of this motion, we were not aware first of all, of the frontier delays that occurred subsequently and secondly of the reason and the linkage that there has been of those frontier delays. So in order to set the historical record straight and to include that point, my colleague will be moving an appropriate amendment. Mr Speaker, the main object behind my bringing the motion is really to place on record the view that we consider this House should take over the incident in question. The desire is not one of exacerbating feelings or adding wood to the fire and getting people more excited than they already are about these incidents. I am fully aware about the depth of feeling that there is in very large sectors of Gibraltar's population and the frustration that people feel in what they perceive is basically Madrid, the Government in Madrid, getting at the people of Gibraltar

and the frustration that people have because they know that we cannot get back directly at Madrid. If we were to do so, if we were to take any form of retaliatory action, we would probably be affecting innocent people, who are not to blame of what is happening, innocent people living in the neighbourhood. In the same way as the consequences of the Spanish attitude, and shown most clearly by the frontier delays that they have imposed, those actions are really also affecting innocent people who come to Gibraltar to work and innocent people who come to Gibraltar as tourists. Fortunately, and I will be saying a little bit about this later on, there is awareness on the other side of the fence, in journalistic circles in particular, about the reality of that situation and that the frontier is being used in a most unfortunate manner, in a manner that goes against basic human rights, that really only does harm to innocent people who have nothing to do with what has happened. The events and the incidents which are covered by this motion are well known and therefore perhaps they do not require over-elaboration. One of the infringements that actually took place, the actual landings in Gibraltar and the appearance of the Customs Officers at court and their subsequent failure to appear and more recently the frontier delays which is not yet covered in my motion and finally the need for the British Government to really take the matter up. I want to anticipate the amendment because I think that the House should also take this opportunity to praise the Gibraltar Police for the intelligent, imaginative and very successful manner in which they have coped with what would otherwise have been very serious traffic congestion, and which was initially very serious traffic congestion, but which as a result of the intelligent way that they have adopted is ameliorating the problem to a very large extent and enabled citizens in Gibraltar and others to be able to go about their business in the vicinity of the airport, Eastern Beach and Devil's Tower Road with relative ease. I think the Police are to be congratulated right at the outset. Sir, from time to time Spanish coast guards or Customs launches have come pretty close to our shores and have chased fast launches and other crafts to our beaches. This has happened both at Camp Bay and on the East side. From time to time there have also been other incidents such as the one involving the GSL Refuse Barge and there have been other interceptions in the Bay or in the Straits by Spanish Coast-guard Boats, more commonly known as "La Tabacalera". Indeed after the 30th June, there was also an incident at one of our beaches on the Easter side when a helicopter hovered so low that it actually disturbed dingys out at sea as a result of the down-draft of their rotors. So this is a feature of life that we experience from time to time and which we have become relatively accustomed to over the years. What was particularly reprehensible about the incident in question were some of the features that it had. First of all, the fact that the Gibraltar launch was chased

right up to Eastern Beach. Secondly that the Spanish launch was deliberately run ashore and the Customs Officers came ashore armed, that they seized and tried to take away the occupants of the Gibraltar boat, that shots were actually fired and a gun, a pistol, was held to the forehead of a particular individual. Since the incident the person involved has been to see me and gave me a graphic account of the incident. It is alleged also that the residents of the Mediterranean Hotel were also threatened in some shape or form. Therefore, I think it is true to say that no previous incident has quite matched this one. This has been therefore in very many respects something much more serious than anything that we have been accustomed in the past and that is why I was frankly surprised to read that it was alleged by the Foreign Office, or at least it was alleged that Mrs Chalker, had expressed some regret about the manner in which the Gibraltar policemen on the scene had reacted and the way in which they had carried out their duty and apprehended those involved. I do not think that it is true that Mrs Chalker expressed some regret about this, at least I do not think that that is the way that a British Foreign Office Minister should react to one of the most.....

HON CHIEF MINISTER:

If the Honourable Member will give way. It is not true, Mr Speaker.

HON A J CANEPA:

I am very glad to hear that, Mr Speaker, because I was going to say that it surprised me that a British Foreign Office Minister would react in that way to what is a very serious infringement of British territory, knowing as I do full well the attitude that the Foreign Office takes to the issue of sovereignty, not just for the whole of Gibraltar, but including the isthmus. Mr Speaker, the men then appeared in court on Tuesday 4th and they were remanded on bail charged with illegal landing and possession of firearms. I would say that in the context of what occurred and having regard to the fact that shots were fired, these were relatively mild charges. They were the least, I think, the least of the charges that could be preferred against the men. Already the circle of "Parliamentarians" who gather below this House were forecasting what would happen. People were wondering if Gibraltarians, at one of our beaches had fired shots, whether they would have been granted bail. That was the attitude in Gibraltar immediately after the incident. The following morning they returned to the Magistrates' Court and the bail conditions were amended. They were required to appear in Court two weeks later and the vox populi in Gibraltar was that they would not turn up for whatever reasons. Perhaps people did not anticipate the reason that was subsequently given, but that was the view

of the ordinary man in the street, that the Customs Officers would not return. I think we ought to note at this early stage that they had already submitted themselves to the jurisdiction of the Gibraltar Courts on two occasions by appearing in the Magistrates' Court and that bail had been paid to the Magistrates' Court as required. No doubt the diplomatic contacts were initiated I venture to say, the very morning that these men were detained, at five o'clock or so in the morning. Very soon after the incident there must have been diplomatic contacts between the Governor's Office here in Gibraltar, the Foreign and Commonwealth Office, and the British Embassy in Madrid. Someone or other, perhaps the Desk Officer at the Foreign Office had had his beauty sleep disturbed that night. But perhaps, Mr Speaker they are used to this as they very often hang around waiting patiently for news from the entourage of the Secretary of State for Foreign Affairs in his worldwide travels. Madrid really came into their own later on, Mr Speaker, when the men did not appear, when they did not make a subsequent appearance in the Magistrates' Court and when they did not submit themselves to the jurisdiction of the Gibraltar Court on that third occasion. Because it was alleged or it was stated by the Government in Madrid to the Foreign Office that they do not recognise as British territory Eastern Beach. What would have happened, I venture to ask Mr Speaker, if instead of Eastern Beach, which I would submit and I will make the point in a moment more vehemently that it is not, in my view, part of the Isthmus. What would have happened if instead of the landing having taken place at Eastern Beach, they had landed at Camp Bay, if they had landed at Governor's Beach or even closer into town, if the landings had taken place at Michael Feetham's Beach within the Bay. It could very well have happened because the Gibraltar launch could have come into the harbour and they could have been followed and the launch could have been run ashore at the Reclamation Site. Would the same attitude have been adopted, would the men not have appeared at the Magistrates' Court because that was not British Sovereign Territory. The beach in question is directly below the Northern Cliff face. It has been historically without a shadow of doubt since 1704, or since 1713 when Sovereignty was ceded, part of British occupied territory and I do not see that there has ever been a dispute about Eastern Beach. There may be a dispute on the part of Spain with regard to the Isthmus, but I would say that Eastern Beach is no more part of the Isthmus than the place at North Front where our forefathers are buried. Surely that is British Sovereign Territory. I think it is unquestionably as British as La Atunara is unquestionably Spanish Territory, and therefore they ought to have submitted themselves to the jurisdiction of the Magistrates' Court on the third occasion, if that was the excuse which the Spanish Foreign Office was giving. I know full well what the attitude of the British Government is, as I say, about this matter. Not only do they hold firmly the view that Eastern Beach is British Sovereign Territory, but

the British Government has no doubt whatsoever, let me state categorically about British Sovereignty over the Isthmus. They have no doubt and they would be prepared, and have been prepared in the past, to put the matter to the test. Now we think, Mr Speaker, that the British Government all along, should have issued a Note of protest on two matters. The actual infringement at Eastern Beach by armed Spanish Customs Officers and that has got nothing to do, it is quite a separate issue from the jurisdiction of the Gibraltar Court. At the political and diplomatic level, there is a need for the British Government, because of the nature of the incident, because it is unlike any other incident that we have been subjected to over the years. There was a need for the British Government or the Foreign Office to have issued, through the proper channels, a Note of protest. And secondly, there is a need to do the same in respect of the reason that has been given for the non-appearance of the Spanish Customs Officers when they jumped bail, namely that that is regarded by Spain as being Spanish Territory. This is an affront that should not be allowed to go unchallenged and in my view it is more serious than the original, the initial act itself. I hope, Mr Speaker, that commonsense is going to prevail on this matter and that relations between Gibraltar and Spain which have undoubtedly deteriorated recently and that an attempt should be made to really put the matter on a sensible key. I say that because ultimately it is two innocent Communities that have already suffered enough over the years that suffer in this respect. The people in Madrid, and that is why they are not particularly popular in certain regions of Spain, like Andalucia and Catalonia, because they take decisions in vacuum, they take decisions which affect the poor people living four or five hundred miles away, and they can sit in their offices in Madrid without being affected in any way by the consequences of those actions. I know that there is the view in Gibraltar today amongst many people, that nothing has changed, that we are back to the situation that obtained before November 20th 1975, that is before Franco died. That is not the reality of the situation, thank God, the Spain of today is not the Spain of the days of Franco and we need to work with calmness to bring an end to the needless punishment and harassment of innocent people. I say that it is not the same Spain because today in Spain people, journalists, are able to do what they could not do in the days of Franco. If Jose Luis Llague had written the two articles that have appeared in Area on the 26th July and more recently, which I think was reproduced in English in Panorama last Monday, and the second one which is an even stronger one on the Sunday 30th, I think that Jose Luis Llague would have written his last article for many years to come on the 30th, because he would now be in prison, and that is why we have to take note of the fact that things are different in Spain. That there is considerable freedom, that there are considerable democratic freedoms, not the least freedom

of the press and in his first article this man who headed the article as "The frontier of punishment" - "Una frontera de castigo", is assuming that the reasons for the delays are insufficient resources. In other words that there was no vindictive retaliatory intent behind that, but that there was more traffic and they did not have enough resources, he was however pointing out in that article that Gibraltar is of great interest to Spanish tourists, that they come from all parts of Spain to the Costa del Sol for their holidays and Gibraltar attracts them like a magnet. It attracts them like a magnet thanks to the publicity which the Spanish Foreign Office has so gratuitously given us over the years and because it is part and parcel of the history of Spain and they want to see what it is all about. It is also terribly attractive to other visitors to Spain and therefore the man was making the point that in the same way as hundreds and thousands of people, for instance, on Pentecost Monday or Sunday visit El Rocio near Seville and measures have to be adopted to cope with that, then this man was making the point that people should not be subjected, in the heat of summer, to these delays for lack of resources. But then when he learns a few days later what the real reason is, then he heads his article "The frontier as a means of vengeance". "La Frontera como arma de venganza" and of course he condemns this action that is being taken out of hand and he goes on to say that in fact those responsible are playing with fire, and that they may get burnt. Because he says that the patience of people who are queuing for hours in the heat of summer has got to break at some time and that there is a possibility that at the frontier one of these days this will happen since people are fed up of waiting and that there is going to be a serious incident involving very many people. It does not take very much, Mr Speaker, in the light of what I said earlier about feelings locally, and it does not take very much to ignite a spark which could lead to a serious incident. I think that if Political and Trade Union Leaders in Gibraltar had wanted to exploit what was happening there could very well have been an incident even greater than that of November 1987. We are all however trying to restrain ourselves in this respect. I could have said a great deal more, Mr Speaker, but really as I have said initially my purpose is to place on the record of this House what I hope will be the united view of this House on the matter, because we need to do so. If we allow a situation such as this one to go by without placing this on record, I think we are then neglecting our fundamental duties. It is the sort of motion that from time to time the Honourable Mr Bossano used to bring and sometimes the vote was fourteen to one against. On some occasions he had a little bit more success and I would hope that on this occasion our Motion with my colleagues amendment might carry the House fifteen love. Mr Speaker I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Motion as moved by the Hon A J Canepa.

HON P C MONTEGRIFFO:

As my Honourable colleague, the Leader of the Opposition has indicated, I have the honour to move an amendment to the motion which takes account of the deliberate action taken by Spain to allow frontier queues to occur in direct retaliation for the issuing of the warrant of arrest for the Customs Officers. The terms of the amendment is as follows: Add sub-paragraph 3 "The attitude of the Spanish Authorities in deliberately allowing frontier queues to occur in direct retaliation for the issue of warrants of arrest for the Spanish Customs Officers". Mr Speaker the reason why it is framed in the terms of condemning the attitude to the Spanish Authorities in deliberately allowing the queues is that our understanding is that it was originally at least the union of the Customs men who were apparently responsible for the action, but it seems clear to us on this side, that such action is clearly supported, aided and condoned by the Spanish Authorities since they have done nothing to take any action which in normal circumstances they might have been able to. So let it be clear that as far as the Opposition is concerned, in moving this amendment, we are placing the responsibility for the queues directly with the Authorities who we feel have deliberately allowed the situation to occur. So the importance of bringing the amendment is basically for the reason given, or at least it was reported, that the Deputy Governor had issued a statement in Gibraltar a few days ago, the Acting Governor, I beg your pardon. The formal reason given was that Spain was actually retaliating as a result of the issue of the arrest warrants. As far as we are aware, this is the first time that it has actually been confirmed that Spain is using the delays at the frontier as a retaliation to action taken. This has been something which we have long suspected but we had not really had basic confirmation of this before. As the Leader of the Opposition has pointed out, Mr Speaker, the decision taken appears also to add weight to the whole attitude of the Spanish Authorities that the landings took place on territory that did not appear to be British Territory and that they did not recognise Gibraltar's jurisdiction. The precedent that this would set is of course very serious and if it is not corrected, as we assume it will be, then the frontier queues are going to be used in retaliation every time that a serious misunderstanding arises between Gibraltar and Spain. Spain might even be prepared to not accept Gibraltar's jurisdiction in other things, like for example, the Chief Minister mentioned this morning the question of the single licence within the EEC. A single licence issued in Gibraltar would be recognised in France and Germany and that is a recognition of Gibraltar's jurisdiction as an

Authority and as an entity, and the Spanish argument might well be of not recognising our jurisdiction at all. I think we have to understand these points and for that reason we have to place on record our protest at the attitude of the Spanish Authorities. Sir, I hope we will be able to emerge this evening with a joint agreement to this motion, a joint venture. I want to endorse the fact that we hope that sense will come out of this episode and that we are dealing with a Spain that we believe is different to Franco's Spain but that in fundamentals we still have to clearly protect Gibraltar's position and in this sense the type of declaration that this House can give effect to by a Motion we feel is one of the steps that should be done in this respect. Thank you, Mr Speaker.

Mr Speaker then proposed the question in the terms of the amendment as moved by the Hon P C Montegriffo.

HON CHIEF MINISTER:

Mr Speaker, am I talking to the amended motion or to the original motion?

MR SPEAKER:

Well you can speak to both now.

HON CHIEF MINISTER:

I do not intend to say a great deal, Mr Speaker, because in fact as far as I am concerned, the views expressed in the motion are shared by the Government and unlike similar Motions it will not be defeated by 14 to 1 or even by 8 to 7. The Leader of the Opposition's expectation will be fulfilled and we will be voting in favour of the motion as it stands. We will not try to amend it. We take it as it stands now and also accept the amendment moved on the question of the delays at the frontier, Mr Speaker. I do not think there is any doubt about the fact that the frontier delays on this occasion are centrally inspired and certainly it has been difficult to track down the supposed union involvement. I think certainly some informal contract that were made on the other side to find out what union was telling the officers to take this action. It turned out eventually that the alleged union was the union of the bosses of the officers in Madrid that was doing it. That is how they explained that it was coming from Madrid and it was still the union. I suppose they could have a union of the Senior Officials in the Foreign Office also giving orders at the end of the day. I think we need to make clear what it is that we are doing. I think what we are doing is more than putting something on record here and we are doing it with our eyes open. Certainly I do not know whether everything the Leader of the Opposition has said will get reported back to Madrid, but I have no doubt that the text of the

Motion will. I am saying that and at the same time I am saying that we are supporting it, because I do not feel that fear of retaliation should inhibit our right to free speech in this House. Otherwise we might as well have given up in 1968, and although there has been a democratic change in Spain which is very fundamental, regrettably for us, it seems to stop at the Isthmus and when it gets to it, it gets stuck and I know they see it differently from the way that we do. I can tell Members that I was in London when the incident happened and I was approached by the Foreign Office to be warned about what was taking place as well as by the Acting Chief Minister, who rang me up to tell me how they were handling it at this end and the initial supposition from Spain apparently was that an apology on their part and an explanation supposedly along the lines "that the Officers involved were from Cadiz and not from here and were unfamiliar with the territory and did not realise that they had actually landed in Gibraltar until they suddenly found themselves facing Gibraltarian policemen and that they were sorry that it had happened and that it would never happen again". They thought that that would be sufficient, apparently this is what the Madrid Authorities thought, that it would be sufficient for the matter to be terminated at that point and the whole thing forgotten as a regrettable incident as between two friendly cooperating Member States, except that we are not two friendly cooperating Member States, because they are not cooperating on maritime communications, they are not cooperating in allowing us to make use of the Air Liberalisation Legislation that has just been introduced for Regional Airports. They have tried to put conditions on us which do not apply to anybody else in the original Directive and they even claim to have opened the frontier in exchange for talks on Sovereignty and not because they had to because they were joining the Community. So in fact, nothing that happens between us is the same as if it were to happen between France and Spain or Portugal and Spain. It is different, and it is going to be different for a very long time to come, and we have to live with that reality. They have to live with it and we have to live with it and at the end of the day, it is not our desire anymore than it is not the Opposition's to stoke up fires of hostility or enmity - this is not in the interests of either the Gibraltarian people or the neighbouring towns. But we are absolutely clear-cut in our own mind that we must not be seen to concede an inch on fundamental principles for the sake of peace and quiet. We are firm believers that once you get on the slippery road of making compromises to buy peace, to buy over a blackmailer, to buy over a bully, to buy over a declaration of war, then that process only ends when you are down to your socks and your underpants and it is a question of giving and giving and giving, and therefore we have to make absolutely clear, as I think the motion does,

and we are not seeking to change it because we think it collects very accurately the sentiments that have already been expressed privately by the Gibraltar Government when they have been asked for their opinion. This is what the Gibraltar Government thinks is the feelings of the people of Gibraltar. Therefore we have to have it on record as the Member opposite says and it is in fact in keeping with the tradition of this House. Because, Mr Speaker, whether we have talked about negotiations on the airport or anything else, I have always felt there was a need to put the thing on record so that the position of Gibraltar in its elected forum should be there as a matter of historical record for the future. I do not think that there can be any doubt either that the Foreign Office would consider this to be a regrettable addition to the obstacles and add to their efforts in trying to cool down the situation, but be that as it may, it is better I believe for the Foreign Office to make it clear to the Spaniards that we are absolutely convinced that we are in the right and that they are in the wrong, and if we are going to avoid repetitions in the future, then however long it takes them to come to their senses and we hope it will not be very long, it is a matter of us sticking to our guns and pulling through this one like we have pulled through other crises in our relationship in the past and therefore the Government is very happy to support the Motion as it stands.

HON A J CANEPA:

Just one very minor point, Mr Speaker. It becomes necessary to place the matter on record and to protest about the attitude that has been taken because we are in the right and there is not a shadow of doubt that we are in the right. If we were on doubtful territory, then perhaps the matter would be different, but this is a fundamental matter and until Spanish Authorities accept the view that we take about British sovereignty over Gibraltar is uncompromising, unless we start from that premise, really they will never reach a greater understanding of our position, which I would hope that they would have done by now and that is why the Motion has got to echo the sentiments of the people of Gibraltar, because the people of Gibraltar take a very simplistic view of the matter. The matter does not have any shades of grey. It is absolutely clear-cut, we are 100% in the right and therefore regardless of what feathers we may or may not ruffle, we have to make the stand.

Mr Speaker then put the question which was resolved in the affirmative and the Motion, as amended, was accordingly passed.

The following Hon Member was absent from the Chamber:-

The Hon E Thistlethwaite

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I beg to move that the House should now adjourn sine die.

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

The adjournment of the House sine die was taken at 9.00 pm on Tuesday 1st August 1989.