

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

18<sup>TH</sup> JANUARY, 1990

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eighth Meeting of the First Session of the Sixth House of Assembly held in the Assembly Chamber on Thursday 18th January, 1990, 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 K W Harris - Attorney General  
The Hon J H Bautista - Financial and Development Secretary

OPPOSITION:

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

The Hon P C Montegriffo

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 9th November, 1989, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

Members will recall that in the July meeting when Honourable Members welcomed the ruling on the personal option to disperse with the wearing of jackets in the Chamber on occasions classified by the Speaker as unbearably hot, climatically of course, the House also showed tacit approval to the expectation of another practical step, the indexation of Hansard. It is now a pleasure to report that the Chief Minister having authorised its implementation, and thanks to the resourcefulness of the Clerk and keen cooperation of the rest of the staff of the House, work on it will commence forthwith. I know Honourable Members will welcome the realization of this long awaited administrative action that will add importance to what has been expressed in the past and what is said henceforth by Honourable Members. The Hansard will cease to be a dark tomb of dead reports and become a live archive from where information can easily be traced by any person interested in the views of Gibraltar's elected representatives and their decisions, where it matters most, and in so doing strengthen the foundations of the sovereignty of the people of Gibraltar as embedded in this august House of Assembly.

DOCUMENTS LAID

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

- (1) The Employment Injuries (Claims) (Amendment) Regulations, 1990.
- (2) The Employment Injuries (Benefits) (Amendment) Regulations 1990.

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.5 of 1989/90).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.6 of 1989/90).
- (3) Statement of Supplementary Estimates No.3 of 1989/90.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.20 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE CONTRACT AND TORT (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Contract and Tort 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 M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, we are here satisfying one of our obligations to the European Economic Community. A substantial area of activity in the EEC is aimed at looking to fair competition rules and is concerned with consumer protection. The Directive to which this Ordinance will give effect is one such measure. It concerns what are commonly called doorstep contracts and it basically gives the purchaser an opportunity to reconsider and to back out of, for example, an agreement to, say, buy a new carpet where the selling took place in the purchaser's own home. It recognises that saying no may be more difficult where the salesman is sat on your sofa drinking a cup of coffee than when you are actually in his own shop. To give effect to the Directive, we are incorporating it into our contract law, in other words, make a contract for sale in these circumstances and the Directive would apply. Like many Directives in this area, it is very simply written and easy to understand. It leaves one or two things to the discretion of Member States. For example, it gives Member States an opportunity to limit its application. We have chosen not to do this and that is reflected in subsection (2) of the proposed Section 42. Again in the situation where money may have changed hands or work having been undertaken before the consumer backs out of the purchase, the Directive requires that Member States say how such

issues should be resolved. We do this by using the existing provisions of the Contract and Tort Ordinance which adequately deals with the matter. I refer you to Section 3 of the new Section 42. The EEC has a tendency to amend and replace Directives as experience and policy dictates such change. To facilitate the application of relevant changes in the Directives concerned with doorstep contracts, we propose the measures contained in the proposed Subsection 43. In the majority of instances where the provisions of the Directives will apply, no dispute will arise. The transactions which are excluded are clearly set out and in reality there are probably few occasions in which the consumer in Gibraltar needs the protection of this proposed legislation. However, we have an obligation to ensure that our laws adequately reflect the relevant Directives. For this reason, Mr Speaker, I move this Bill. 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, without being completely familiar with all the provisions of Directive 85/577, we nevertheless welcome the legislation. We support it and we will be voting in favour.

HON P C MONTEGRIFFO:

Mr Speaker, in welcoming the legislation, the question that I would like to raise and I may have an indication from colleagues on this side, I am not sure. My understanding is that the Directives are 1985 Directives and we are now in 1990. Is there any reason why the Directive has now become relevant and was not relevant in 1985 or is it just part of a general catching-up process which the Government is involved in?

HON M A FEETHAM:

A catching-up process.

HON P C MONTEGRIFFO:

I am obliged, Sir.

MR SPEAKER:

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



HON M A FEETHAM:

I have nothing further to add, Mr Speaker.

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

HON M A FEETHAM:

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 SALE OF GOODS (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Sale of Goods 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 M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, safety of toys is a subject which has been before this House before, it is also a matter of concern in the European Economic Community generally. The Bill before us now gives effect to the EEC Directive concerned with the safety of toys insofar as it is necessary to do so within Gibraltar. The real burden of ensuring toy safety lies with the manufacturers and the bulk of the Directive of 88/378 is concerned with procedures for establishing safe standards of materials, manufacture and inspecting toys both made in a Member State or imported through the EEC through that Member State. In terms of enacting legislation in Gibraltar, that part of the Directive is relevant only insofar as a symbol CE on a toy tells them that that toy has been inspected in accordance with the Directive and found to meet the required safety standard. We can rely on that and on the work being carried out in other Member States to tell us that the toy may be presumed to satisfy the standard of the Directive and of our Bill and will not jeopardise the safety or health of users when used in a reasonable foreseeable way. Information is vitally important and the Bill reflects the requirements of the Directive in respect of the provision of information both about the manufacturer and the about the toy, requiring warnings appropriate to the particular toy or its use to

be attached or included in the package. In the area of the information and warnings, the Directive is clear and requires no local interpretation. We are therefore incorporating that part of the Directive into the Bill. This means that amendments to the Directive which result from experience or improvement in technology can be given effect to quickly and easily by notice in the Gazette. The effect of the Bill will be to make it part of every sale of a toy that the seller warrants that the toy is safe as specified in the Bill and that all the required information or warnings are included. If the toy is not safe or if the information is not included, there will be a breach of contract. The Directive defines what is meant by a toy. That is any product or material designed or clearly intended for use in play by children of less than 14 years of age, but does exclude a number of particular products. This again is likely to change with experience, and so again we are incorporating the changing and improving terms of the definition in our Bill and because of the details provided the Directive and amendments can of course be published in the Gazette. The reality in Gibraltar is that toys imported for manufacture is very small and hardly significant. The most important safeguards are the activities of other Member States in inspecting toys and our own import control system. In advance of this Bill taking effect, a Regulation will be put in place prohibiting the imports of toys that do not meet the EEC standards. It should then be extremely difficult for anyone to sell a toy that is unsafe. However, this is an important area where consumers are particularly vulnerable and worthy of protection and for this reason I beg to move this Bill. 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 M K FEATHERSTONE:

Mr Speaker, I declare an interest in this Bill. I asked a question about unsafe toys a very short time ago, and I am very pleased to see that the Government has acted so quickly to put the matter into proper perspective and have brought this Bill forward. It has our complete support and we hope that it will be satisfactorily implemented. The only question I would mention is that it is hoped that there will be adequate observation of toys to see that they do conform and that if people do transgress this agreement they may be brought to the attention of the proper authorities.

HON P C MONTEGRIFFO:

Mr Speaker, in welcoming this Bill, the point that I would



like to raise is that I feel that the two areas that should be looked at is the question of importation and the Minister,

I am glad to see, has highlighted that aspect as being an aspect that still requires regulation. The present Bill in fact, as I understand it, is the sole legislation that will now exist. In respect of safety of toys there is a complete vacuum other than this. As a more practical point of view, as the Minister rightly points out, since locally produced toys is an insignificant part of the market, effectively it is going to be import controls that is going to start imposing any type of standards in the toys that our children receive. I do not want to, and I am not able to comment more on that obviously until the rules are published, but one question that I would put to the Minister and obviously we are not responsible for what they do, but is the Minister aware, for the general information, of whether Spain has itself passed the provisions of this Directive? Because whereas I am quite happy to receive the British, German and North European toys, the fact remains that there is increasingly a tendency to import Spanish toys and I think it will be a sort of comfort if the Minister could confirm that Spain has adopted these Directives. Then we would hope that our neighbours take action to actually comply with this and if they implemented it that would make sure that we would be one step ahead.

HON ATTORNEY-GENERAL:

Mr Speaker, can I assist on that point. Firstly, the Directive is not due for implementation until June of this year, so I am happy to be able to say and the Honourable Mr Featherstone I am sure, particularly will be happy to know that for once Gibraltar is ahead of its obligations. If Spain has not yet implemented the provisions of the Directive one can hope that it will do so by the implementation date, in approximately five months time.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, I do not think I have anything to add. I think all has been answered except to 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 M A FEETHAM:

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 PENSIONS (WIDOWS AND ORPHANS) AMENDMENT ORDINANCE, 1990

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Pensions (Widows and Orphans) Ordinance be read a first time.

SECOND READING

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

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill follows the Pensions (Widows and Orphans) (Amendment) Ordinance of 1989, that is, Ordinance No.31 of 1989, which was passed by this House on the 10 November of last year. That Ordinance, Sir, prohibits entry into the Widows Orphans and Pensions Scheme of any person who joined Government Service after the 26 October 1989, and enables any existing participating employee to contract out and obtain a refund of his contributions. The present Bill, Mr Speaker, further amends Section 13 of the Ordinance in two ways. Firstly, by imposing a deadline date of 30 March 1990, that is the last working day, Mr Speaker, of the present Financial Year, for the giving of notice by persons wishing to opt out and claim a refund of contributions and, secondly, to restrict eligible applicants wishing to take that step to those public officers who are currently in Government Service. This further amendment to Section 13, Mr Speaker, is appropriate because of the wide definition of 'contributor' contained in Section 2 of the Ordinance. Sir, I commend the Bill to this 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 have no problem about supporting this measure. I understand the position as it is in Section 13 (1)(a) or (b) of the main Ordinance which are the two cases where a person is not able to benefit from the provisions of the scheme by virtue of the fact that he does not have a wife. If he has never married, he does not have a wife then his widow cannot benefit from the provisions of the scheme and in such circumstances, of course, the right

thing to do is to enable that person to have the option of, on retirement, collecting back his contributions. The other instance is that of a person who when he leaves the Public Service in any case does not become entitled to a pension, let us say because he does not have the necessary number of years of service. If someone retires from the Public Service with eight years service, then the normal practice is that he has his contributions under the scheme refunded, because otherwise he would be collecting contributions under false pretences because he is not able to collect the pension so other than in those two cases it does seem to us that it is the correct thing to preclude contributors who have already left the Public Service who do not come under either of those two categories from saying "we also want a refund" and therefore we support the measure.

HON P C MONTEGRIFFO:

Mr Speaker, in welcoming this there is only one question mark that perhaps the Honourable Mover could clarify. He has mentioned the time limits up to the end of March 1990 for the taking of the option, but I do not feel he fully explained the rationale behind that. I assume it to be the case that the Government would like finality in the matter and say "right we will end up with a close scheme of those who remain and we will weed out quickly", and I do not use "weed out" in a bad word, I mean "we will determine quickly those who want to get out rather than have a messy situation of people potentially being at later stages". That is something I would like clarification on but subject to that point I would be happy to support it, Sir.

HON CHIEF MINISTER:

No, the position is quite simple and, in fact, it was pointed out to us after we had passed the previous Bill and we missed it. But the view was put to us from within the administration that the nature of the scheme is like an insurance scheme and of course if you are contributing to an insurance scheme to protect your widow against your death and you have an open ended opportunity to get the refund of all your contributions then it is a one way insurance system, because if you die the scheme pays and if you live the scheme gives you all your money back. The whole basis of financing of the scheme is on the assumption that those who are fortunate enough to live pay for those who are unfortunate enough to die, and we missed that point initially and it was brought to our notice afterwards.

MR SPEAKER:

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

HON ATTORNEY GENERAL:

Thank you Mr Speaker. I do not think there is anything further I can use here, except to thank all Members opposite for their support for this Bill.

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

HON ATTORNEY GENERAL:

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

This was agreed to.

THE CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Procedure 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. Mr Speaker, the purpose behind this Bill is to amend the existing provisions in our law relating to the Courts' powers to grant compensation to victims who have suffered injury or loss by reason of the commission of criminal offences. As the law at present stands, Sir, the position is as follows. Firstly, the Supreme Court has power to order the payment of up to £1000 from the Consolidated Fund to any person who is injured or if he is killed to his widow or children if such death or injury has occurred as a result of such person endeavouring to apprehend any person charged with any offence which is punishable by death or imprisonment for a period of at least seven years. You will note, Mr Speaker, that in respect of this provision the word is charge and not convicted. Secondly the Supreme Court can order compensation of up to £300 but the Magistrates' Court is at present limited to a maximum of £100 to be paid by any person convicted of a criminal offence to the person who has suffered any injury or damage to or loss of property as a result of a commission of that offence. And thirdly Sir, the Court can order the payment of up to £50 from

the Consolidated Fund to any person who has shown courage, diligence or exertion in or towards the apprehension of any person convicted of any offence punishable by death of by imprisonment for a period not less than two years. This, of course, Mr Speaker, is a payment in the nature of a reward. Those present provisions are modelled on the UK Criminal Law Act 1967 and do not appear to have been reviewed since then. Mr Speaker, I will be moving certain amendments at the Committee Stage of this Bill and for the purpose of what remains of my address at this stage the second reading of the Bill, I will assume that the amendments I intend to move will be allowed. Clause 2 of the Bill as I propose to slightly amend it will empower the Supreme Court to pay compensation not exceeding £3000 to any person injured or to the dependents of any person killed where such injury or death has been occasioned in an endeavour to apprehend somebody who has been charged with an offence triable at the Supreme Court. As the House is aware Mr Speaker, the most serious criminal offence such as murder, rape and robbery merely by way of example, can only be tried at the Supreme Court, but there are a category of less serious offences which can be tried either at the Magistrates' Court or the Supreme Court such as most offences involving an allegation of assault, theft, criminal damage etc, and the provisions in Clause 2, as proposed to be amended, are modelled upon Section 30 of the United Kingdom Powers and Criminal Courts Act 1973. Sir, Clause 3 of the Bill, as proposed to be amended, will enable the Criminal Courts either upon application or of their own volition to have power to impose upon an offender the compensation order with the object that compensating the person who has suffered injury, loss or damage as a result of the offence. The Courts' powers here arise upon conviction and while the Supreme Court will have unlimited power to make whatever order is considered appropriate the jurisdiction of the Magistrates' Court will be limited to the sum of £2000. The proposed section repeals and replaces the existing section 227 of the Criminal Procedure Ordinance and the new section goes on to specify the factors which the Court, before making any compensation order, is obliged to take into account. Most important of all, Mr Speaker, this House may think, an obligation is imposed upon the Court to give preference to the making of any appropriate compensation order where it feels that the offender has insufficient means to pay both the compensation order and a fine. It will be seen therefore, Sir, that what is intended is that the Court should think first and foremost of procuring suitable compensation for the victim of an offence and think, secondly, a suitable retribution so far as the offender convicted is concerned. Clause 4 of the Bill inserts into the Ordinance three new sections which I really hope Members will agree are self-explanatory. The proposed section 227A creates a right of an appeal for an offender against which a compensation order is made. The prospective section 227B empowers the Court who has made a compensation order to review it and possibly to

discharge it if subsequently there has been civil proceedings in which a material order has been made in favour of the injured person or if he has succeeded in retrieving the property which he initially lost as a result of the commission of the offence. The new prospective section 227C deals with the effect of compensation orders on subsequent awards in civil proceedings. Mr Speaker, Clause 5 of the Bill deals with the Court's powers to reward a person who has been active in or towards the apprehension of any person who has actually been convicted and in exercising that power the Court is obliged to consider what sum is reasonable and sufficient to compensate a person who is deemed worthy of a reward for his expenses, exertions and loss of time effected in or towards the apprehension of the relevant offender. Clause 6 of the Bill creates the necessary flexibility to review the maximum levels of compensation from time to time by empowering His Excellency the Governor after consultation with the Chief Justice to make appropriate regulations. Mr Speaker, this is yet another example I suggest of a Criminal Bill containing provisions which Members may think could and should have been introduced to this House before now. It has the support of all Members of the Judiciary and I do hope also Mr Speaker, the support of Members on that side of this House. Sir, it is my pleasure to commend the Bill to this 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 G MASCARENHAS:

Mr Speaker, the Opposition will welcome the legislation. It is progressive legislation, perhaps long overdue. We shall certainly be voting in favour.

HON P C MONTGRIFFO:

The only thing that I want to say is that I obviously support the Bill and that this might be seen as a good example of what I might suggest to the Attorney-General, or the Government generally, could become the practice and a mirror for all our Ordinances. Our Ordinances very usefully Mr Speaker, itemise the equivalent English section from which Gibraltar law is taken in the cases where Gibraltar law mirrors exactly an English section. That is of enormous help to people when looking at the law. Because as the Attorney General will well understand, laws always suffer modification and interpretation and when you are enacting something to the UK laws since 1967 it really might mean something very different to what it literally says in this sheet of paper in terms to the way it has been interpreted. I wonder whether the Attorney General could see his way, if not on the margin of each of the Bills, to have a



reference within the Section as is the case in our Ordinances or at least, in perhaps, the Explanatory Memorandum to have a brief note as to the English source of the legislation if that was to be the case in any particular legislation. I think, Mr Speaker, that that really would help us understand better the problems which for example this type of legislation might have given right to the UK over nearly 25 years of implementation there. Now I know it is part of the Criminal Law Revision Act 1967, but I mean it could have taken an impossible memory effort on my part to have devised that and to have guessed it myself. That is the only point that I would like to make.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Thank you, Mr Speaker, I am very grateful to the Honourable Mr Montegriffo for his contribution and the thought of doing what he suggested has not escaped my mind, Mr Speaker, but the reason why I have been reluctant to do that, at least so far, is because in drafting Criminal Legislation although I have drawn upon the provisions contained in existing UK Law, the corresponding provisions I have not always religiously followed word for word the exact wording of the corresponding section in the English Statute and secondly Mr Speaker, if one does so and one inserts a marginal note to indicate what precisely the corresponding provision of the UK law is. One gets into difficulties, if in Gibraltar, we subsequently amend that Section. I do take particular notice of the Honourable Member's comment concerning satisfactory details in the Explanatory Memorandum and I will give, certainly, serious consideration to that. Mr Speaker, I am grateful to all Members of the Opposition for their support, I think you will agree that I have certainly have not been inactive in bringing Criminal Legislation to this House in the very short time I have been a Member and I have got lots of ideas yet. Thank you, Mr Speaker.

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 MAGISTRATES' COURT (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY GENERAL:

Mr Speaker, in respect of Item No.5, the Magistrates' Court

(Amendment) Ordinance, 1990, as communicated to you in my letter of 15 January 1990 it is not proposed to proceed with this Bill. Mr Speaker, on this occasion for the benefit of the Honourable the Leader of the Opposition and anybody else who may be interested I will give reasons. Mr Speaker, I indicated that at the Committee Stage of the previous Bill I had the honour to commend to this House the Criminal Procedure (Amendment) Bill, I will be moving amendments at Committee Stage. Those amendments, Mr Speaker, I can tell the House, will include the provisions that would have been or perhaps will become the Magistrates' Court (Amendment) Ordinance of 1990 and for that reason, Mr Speaker, there is no necessity now to proceed with this particular Bill.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Thursday 15 February at 10.30 am.

HON A J CANEPA:

Sir, I was under the impression that motions would be taken in this session. I remember speaking to the Clerk about that.

MR SPEAKER:

Well the session as you can see has not been finished, there is more business of the House to follow and what the Chief Minister is doing now is adjourning the House at this point.

HON CHIEF MINISTER:

To the 15 February when we propose to continue with the First and Second Readings of the Bills, Mr Speaker.

HON A J CANEPA:

But that was not my impression Mr Speaker. My impression was that, and I hope that there has not been a failure in communication, because what I communicated to my colleagues was that the House would be adjourning to mid-February when we would be taking the rest of legislation and other matters. I however remember that when I spoke to the Clerk of the House the understanding was that the motions, of which we had been given notice, would be taken now. Particularly the one which is particularly topical now. There may be no point in taking it in mid-February, Mr Speaker. At least that was now it had been presented to all, including the media.

HON P C MONTEGRIFFO:

Mr Speaker, can the Chief Minister at least explain further

the reasons for wanting to adjourn the House totally until the 15 February as opposed to perhaps adjourning certain items of the Agenda, like, for example, the fact that the Attorney-General now has given an indication that on the Magistrates' Court Ordinance, it will be dealt with in a different way? If there are specific items of business which the Government is not able to proceed with at present then that might be the subject of a legitimate or a more understandable delay. But not on the other business which does not depend on the Government being ready. Is there any reason which the Chief Minister should put to us for our persuasion which would militate against our impatience on wanting to have the session go on now?

HON A J CANEPA:

Perhaps, Mr Speaker, I might say something further, because you have been absent, you have been away from Gibraltar, and therefore my means of communication with the Chief Minister on these matters is through the Clerk. If there were to have been difficulties on the matter I would naturally have brought you into it, moreso if you were not in Gibraltar. However, the position was absolutely clear-cut and the motions were going to be debated now and therefore we came to the House ready to debate the motions today and tomorrow. The House would then have adjourned to the middle of February for whatever other legislation was outstanding and for any other business or any other Bills which the Government might wish to introduce between now and the middle of February, as has been done on other occasions. But I think that that is totally unacceptable that the House just winds up its proceedings this afternoon when everyone has come here with the expectation that there are important matters which were going to be debated.

MR SPEAKER:

Well, the understanding was, as the Honourable Leader of the Opposition is saying, that the Leader of the House appears to have made another decision now and as Leader of the House he has the right to do it.

HON A J CANEPA:

Mr Speaker, if the Leader of the House continues to proceed in this manner he might well come here in the middle of February and find that there is no Opposition Members in the House. If that is how he wants to proceed, ultimately the public may judge him. At the moment he is riding high but people may have second thoughts if he is going to proceed in such a high-handed manner without any consultation because there has been no consultation, Mr Speaker.

MR SPEAKER:

Well I have not put the question. What I will do is I

will put the question and then it is up to the Leader of the House to say what he may wish to say. I now propose the question which is that this House do now adjourn to Thursday 15 February, 1990, at 10.30 am.

HON CHIEF MINISTER:

Mr Speaker, the House meets when it suits the Government of the day that it should meet and has always done so. The degree of consultation to which the Honourable Member refers never happened before in all the time that I was on the opposite side of the House. I found when we were meeting next when the then Leader of the House stood up and adjourned the House and told the House to when the House was being adjourned. The position therefore is that since we are still on Government business and since there are matters in the following two Bills which require further work on our side and we are not ready to proceed we have decided to interrupt the sitting of the House at this point as we are perfectly entitled to do. We will continue at the point at which we are interrupting business on the 15 February. By which date we hope to be in a position to carry on with the work of the Government and when that work is completed it is then, and only then, that the motions of the Members opposite will be debated. Mr Speaker, what Members in Opposition can do, and it is the only thing that they can do, is to take advantage of when the Government needs to come to the House to carry out its business to put forward the views that they want to put forward and therefore nothing is going to happen between now and the 15 February that is going to alter the subject matter of the motions to which Honourable Members opposite are referring. Mr Speaker, they all refer to historical situations and if he is very well prepared today then I imagine he will be even more well prepared on the 15 February.

HON A J CANEPA:

Mr Speaker, the fact of the matter is that there is no precedent for what is happening today. It has never happened before. The proceedings of the House have never been interrupted suddenly out of the blue in the manner in which they are being interrupted now. If the Government is not ready to proceed with two Bills then those Bills can be left for a later date. To the 15 February or to any other date which is convenient. It is without precedent in all the years that he and I have been Members of this House for the Leader of the House to stand up all of a sudden without the Members of the Opposition knowing anything about it and moving the adjournment of the House and suddenly interrupting the House in this manner. Of course he can do that. He has the majority, he has 71% support from the people of Gibraltar and his Government has 67%. He can do the opposite to what is happening in Eastern Europe and undermine democracy, if he wants to, but to say that that has happened in the past is not the case. It has

never happened and the previous Chief Minister, Sir Joshua Hassan, was always very careful to consult Leaders of the Opposition before taking action of this sort. Of course there was sometimes agreement to take a motion, and sometimes agreement would not be reached to defer it to a later date. But, Mr Speaker, what is happening here this afternoon, and all Members who have been Members of this House over the years know that perfectly well, some of us going back to 1969, even before the Chief Minister and I joined, that this sort of thing has never happened before. Let him not dress it up in any other way and pretend that there is a precedent because there is no precedent and the facts are that all Members on this side of the House came here under the impression that we were going to debate the three motions.

HON P C MONTEGRIFFO:

I have got to express my deep disappointment at the attitude of the Chief Minister. I asked a moment ago for a reason why it should not be possible for the Government to defer its own business and let the House deal with other business and I think the answer the Chief Minister has given basically is that might be right. That "since I can do it I will do it" as opposed to giving any more persuasive argument as to why he should do it. I regret it, I accept the fact that he has the authority to do so, but I think it is a bad day for this House. Secondly Sir, and I finish with this, is that I feel it is an element of discourtesy. I certainly after the dinner that we jointly went to, Mr Canepa, Mr Bossano and myself, I personally sat down at 1 o'clock at night to prepare for what I thought I might want to say on certain aspects of the motion and I think it is important because one has to come prepared and I think there is an element of discourtesy unless there was a very good reason to defer matters of this nature. There should have been an element even as late as yesterday to have said "it is the Government's intention to defer this or that business". I think, Mr Speaker, that it is not the way of conducting proceedings in a civilised debating chamber which this House becomes when we argue and debate things like the areas the motions are addressing and I think it is discourtesy and I regret the decision and I feel it is a sad day for the House.

HON A J CANEPA:

Mr Speaker, what is happening here this afternoon is that the Chief Minister is adopting this tactic in order to deflate from the importance of one of the motions which has been the subject of a public outcry and what he is hoping is that in a month's time, by then, people will no longer care about the issue. That is the reality. He has had plenty of opportunity, it is the simplest thing in the world to speak to me and to tell me that he is going to alter the proceedings but no, he prefers to be high-

handed. If that is the way that he wants to proceed, as he is quite correct in saying that the motions are in a way historical, the one on the televising of the proceedings of the House I can bring at any time. The other one even if he wants to deflate it, it is not going to come on the 15th February, and it is not going to come on the 15th February because I will not be here then to move that Motion and I will then bring it up at the following meeting of the House because if it is not going to be debated today or tomorrow, it does not matter whether it is the 15th February or the 15th March, but as an act of protest against the high-handedness of the Government, we will not be here on the 15th February.

MR SPEAKER:

May I just point out that we have got to follow the rules of the debate. Members can only speak once. I have allowed the Leader of the Opposition because he feels very strongly about this, but I must now tell Members that they can only speak once on this debate. Does any other Member wish to speak? If not I will call the mover to reply.

HON CHIEF MINISTER:

Mr Speaker, I think the reaction of the Honourable Member opposite is clearly because I have spoiled him in the year and ten months that we have been in Government and this is what happens. Sometimes when you are too magnanimous with people they take things for granted. As I have said originally in the all the years that I have been here never once did the then Leader of the House say to me when he proposed to start or when he proposed to finish any meeting and I took the trouble to prepare myself to deal with any situation as it arose, and the position is that he will get less information from now on, not more, since he is taking it the way that he is taking it. So as far as I am concerned the position is that we call meetings of the House when it suits the Government to call the meeting of the House to carry out the business of governing Gibraltar which is what the AACR did for the last sixteen years and what the AACR has to do now that it has been relegated to where it should have been for the last sixteen years, is to accept that it is in Opposition and when the opportunity arises bring to the House whatever they want. If he is not here on the 15th February then, Mr Speaker, all that will happen is that we will have a few less hysterical outbursts on the 15th February than we have had today, but I am sure we can live with that. I beg to move the adjournment of the House.



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 K W Harris  
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 motion was therefore carried and the House adjourned to Thursday the 15th February, 1990, at 10.30 am.

The adjournment of the House was taken at 5.30 pm on Thursday the 18th January, 1990.

The House resumed at 10.45 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 GSI and Tourism  
The Hon J I 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 I Moss - Minister for Education, Culture and Youth Affairs  
The Hon K W Harris - Attorney-General  
The Hon P J Brooke - Financial and Development Secretary

OPPOSITION:

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

The Hon P C Montegriffo

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon P J Brooke, Financial and Development Secretary, took the Oath of Allegiance.

MR SPEAKER:

I think the House would like me to welcome the new Financial and Development Secretary and wish him an exciting and enjoyable time in the House and fulfilment in his new capacity here in the House.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you very much, Mr Speaker, for your kind words of welcome on behalf of the House. Can I say how honoured I am to take up my new post in Gibraltar and how much I am looking forward to contributing to the deliberations of the House to the best of my ability. Thank you very much.

STATEMENT BY MR SPEAKER ON PARLIAMENTARY PRIVILEGE

MR SPEAKER:

I would like to make a statement on the question of Parliamentary Privilege.

Matters touched upon at the last meeting of the House have given rise to correspondence being addressed to Members which could inhibit their legitimate activities as elected representatives in this House of Assembly. I thus believe it prudent to bring to the attention of Honourable Members and the public generally, the privileges with which elected Members are vested for the purpose of carrying out their duties in this House and by my doing so discourage and dissuade people breaching these privileges and, in the process, unwittingly perhaps, making themselves liable to the consequences of any such acts of contempt.

"Parliamentary privilege" is defined in Erskine May, as "the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals".

Section 36 of the Gibraltar Constitution Order 1969, states:

"The Legislature may prescribe the privileges, immunities and powers of the Assembly and its Members, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom or of the Members thereof";

and Part V of the House of Assembly Ordinance - "Powers and Privileges of the Assembly" - Section 61, states:

"There shall be freedom of speech and debate in the Assembly. Such freedom of speech and debate shall not be liable to be questioned in any court or place outside the Assembly".

Section 62 states:

"No civil or criminal proceedings may be instituted against any Member for words spoken before, or written in a report to, the Assembly or to a committee thereof or by reason of any matter or thing brought by him therein by petition, Bill, resolution, motion or otherwise".

The privileges extended to Members individually are far reaching and legally complex. The subject cannot be examined widely and extensively in a short statement as the one I am making today. Furthermore each situation has to be considered on its merit if and when it arises.

Thus to meet the situation that has obliged me to make this statement I must draw attention to the freedom of speech that elected Members are protected by whilst carrying out functions connected with proceedings in the House.

Members are protected from interference through any form of physical, oral or written intimidation which could be considered to obstruct Members of the House carrying out the duties for which they are elected.

Members who may feel being so obstructed may report the matter to the Speaker, who taking into account the facts and circumstances of the case, will follow up the report as he may deem necessary bearing in mind that the House collectively in its judicial capacity is the Court that will pass final judgement if so required.

As past examples of what may constitute molestation of Members on account of their conduct in the British Parliament, I quote cases embodying this type of contempt:-

- "(a) Challenging a Member to fight on account of their behaviour in the House or any committee thereof or even on account of remarks made outside the House which touched proceedings in the House;
- (b) Writing letters to Members taking notice of speeches said to have been made in the House and threatening to contradict them from the Gallery;
- (c) Sending insulting letters to Members in reference to their conduct in Parliament or letters reflecting on their conduct as such Members;
- (d) Threatening to inflict pecuniary loss upon a Member on account of his conduct in Parliament;
- (e) Inciting the readers of a newspaper to telephone a Member and complain of a question of which he had given notice;
- (f) Calling in a newspaper for the arrest of a Member and describing him as an arch-traitor;
- (g) Sending a letter to a Member threatening him with the possibility of a trial at some future time for asking a question in the House".

It will be noted from the above that conduct not amounting to a direct attempt to influence a Member in the discharge of his duties, but having a tendency to impair his independence in the future performance of his duty, will also be treated as a breach of privilege.

This statement should make everybody aware that when any of the rights and immunities, both of the Members individually, and of the Assembly in its collective capacity, which are known by the general name of 'privileges', are disregarded or attacked by any individual or authority, the offence is called a breach of privilege or contempt and is punishable under the law of Parliament as may be applicable in Gibraltar.

#### NOTICE OF MATTER TO BE RAISED ON THE ADJOURNMENT

MR SPEAKER:

I would like to inform the House that the Hon K B Anthony has given notice that he wishes to raise on the adjournment, matters relating to the question of the non-collection of rubbish on Sundays.

#### DOCUMENTS LAID

The Hon the Financial and Development Secretary moved the suspension of Standing Order 7(3) in order to suspend Standing Order 7(1) to lay on the table the following document:

Statement of Supplementary Estimates No. 4 of 1989/90.

Ordered to lie.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, if I could just explain that the Statement of Supplementary Estimates No. 4 of 1989/90 has been laid on the table because Statement No. 3 of 1989/90, which was laid on the 18th January, 1990, is not being proceeded with. The Bill to which that Statement referred is also not being proceeded with. The House will have noted that a new Supplementary Appropriation Bill has been included in the Supplementary Agenda to which the Statement just laid refers.

## BILLS

### FIRST AND SECOND READINGS

#### THE PUBLIC HEALTH (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

#### SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The object of this Bill, Mr Speaker, is to alter certain aspects of the provisions of Part 11 of the Public Health Ordinance that deals with rating. One aspect of the alterations has an important extension of rating policy, the others are largely of a consequential or administrative nature. I should like to start by dealing, first, with the more important change. The Government considers that there should be additional machinery in the rating system to provide incentives in furtherance of the overall planning of Gibraltar's economic development. For example, if and when the development of an industrial park were to take place in Gibraltar, it would be advantageous to have the existing business take up accommodation there even though this might be more expensive for them because of the level of rents and rates. The measures proposed would enable relief to be granted to encourage such movement and cushion the additional expense, the amount and period of such relief being as considered appropriate in each case. The criteria for such relief would, by the nature of the proposal, need to remain flexible to respond to the developing circumstances of Gibraltar. This is the purpose, Mr Speaker, behind the amendment in Clause 2 of the Bill, subsection (3) of section 271 of the existing Ordinance which currently only provides for relief from rates to be granted on account of the property of an individual. The amendments proposed in Clauses 3 and 4(b) of the Bill are simply consequential upon the repeal in 1989 of the Gibraltar Museum and Antiquities Ordinance which was replaced by the Gibraltar Heritage Trust Ordinance. Thus no rates will be payable under the provisions of section 273 of the Ordinance on any building listed in Schedule 1 of the Heritage Trust Ordinance and the Gibraltar Museum continues to be exempt from assessment. I have already indicated to Members, Mr Speaker, by circulation, my intention to move an amendment to the Bill at Committee Stage to delete Clause 4(a) which is considered, upon reflection, to be superfluous in the light of Clause 2. The amendments in Clause 5 of the Bill are



relative to section 282 of the Ordinance and is purely for administrative convenience. As stated in the Explanatory Memorandum of the Bill, it would transfer the responsibility for granting exemption from liability to pay rates in respect of property used for charitable and related activities from the Governor to the Financial and Development Secretary. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, the difficulty from the point of view of the Opposition is that the Bill is not a homogeneous piece of legislation. It has a number of Clauses which make provisions which are not entirely cohesive. Therefore it is very difficult to react to the principles of the Bill, particularly during the Second Reading, when there are amendments already and of which we had notice of a couple of days ago and which are very far reaching. Therefore, our intention, I think, is to go into rather more detail and make comments on each appropriate Clause in Committee. Generally, the Bill as it stood originally was not very disquieting, we saw that in Clause 2 it was the Financial and Development Secretary who was being given certain discretion and we were not unhappy about that. There is now an amendment where it will be in accordance with the criteria laid down from time to time by the Government of Gibraltar that will be the basis on which relief will be given and we want really, in Committee, to hear more on this matter and I am therefore giving notice to the Government that we want to hear a little bit more about the nature of such criteria. What is it that the Government has in mind? We therefore feel, Mr Speaker, that at this stage we cannot support the Bill. We will not be voting against it, we will simply abstain on the Second Reading.

HON P C MONTEGRIFFO:

Mr Speaker, I would just add that I do not object to the comments made by the Leader of the Opposition at all but I would just add that in my view the amendments to the Bill, being as they are, effectively, amount to a new Bill in many respects because it is so far reaching that I do not think really therefore that it is proper that the amendments having been circulated on the 12th February, that is, two or three clear days ago, that the matter should be dealt with as if it were simply an ordinary amendment. I will also reserve my position until the Committee Stage to see stage by stage as we go through the sections what the impact of the amendments are. The Bill as originally published is almost superfluous now, Mr Speaker. It is the piece of paper

which was circulated on the 12th that is in fact what I believe this House is being asked to consent to. Thank you, Sir.

HON CHIEF MINISTER:

Mr Speaker, can I just make clear that as far as we are concerned we certainly do not agree with the interpretation of the Hon Member opposite who has spoken last. We do not agree that this is a new Bill and that the amendments are very far reaching because, in fact, what has happened since the last House when we stopped at this point was that in looking at the way the Bill was drafted it appeared to us that it raised complications which had not been brought to our notice at the time that the drafting had taken place and, in fact, you will recall that I said we were not in a position to proceed with the Bill precisely for that reason, because we were not ready to move on what was there. What we are doing now is, in fact, as far as we are concerned, redrafting the Bill to achieve what we were setting out to achieve in the first instance. It is not that there has been a change of policy since the Bill was originally published.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have taken note, Mr Speaker, the intentions that have been expressed to seek certain explanations at the Committee Stage of the Bill.

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 K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The following Hon Members abstained:

The Hon K B Anthony  
The Hon It-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon Dr R G Valarino

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1989/90) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, as I have already explained when tabling the Statement of Supplementary Estimates No.4 of 1989/90, this Bill is not being proceeded with.

THE GIBRALTAR DEVELOPMENT CORPORATION ORDINANCE, 1990

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for the establishment of a Development Corporation to secure the regeneration and economic expansion of Gibraltar and to provide for matters connected thereto be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I do not know whether there is a need for me to make a speech to move the Bill because, in fact, before we came to the House, the Opposition had already decided that they would be voting against it because they had already passed judgement on it. It may therefore be that my speech is superfluous and unnecessary and we might even be able to expedite the work of this House if we just publish things and then come here and vote without bothering to discuss it. I do not know whether that has any bearing on the privileges of the House, with reference to the comments

that you, our Speaker, were making earlier, but it does seem to me that it would have been more appropriate for the Members opposite to hear first what we want to do and why and then pass judgement rather than to have jumped the gun. However, it is their privilege to do what they wish and not for me to tell them how to run their business on that side of the House which I run for sixteen years.

The Gibraltar Development Corporation is, in fact, drafted, the Bill is drafted based primarily on the position that exists in UK as regards Urban Development Corporations. In fact, the wording used in the UK establishes the purposes for which an Urban Corporation may be created as one of regenerating an Urban Development Area and where there are powers for the Secretary of State to create such Corporation by Statutory Instrument which subsequently get approved by the House of Commons by resolution. However, since we do not have a situation where there are Ministerial powers to create Corporations by Statutory Instrument, a power which obviously has not brought the Constitution of the United Kingdom crushing down, we have more limited powers than they have and have to legislate to be able to do it. Now obviously instead of a Development Corporation it would have been a relatively simple thing to incorporate a limited liability company under the Companies Ordinance which would not have required legislation in the House of Assembly. However, it would then have required a share-ownership, on the part of the Government, and one of the things about the Development Corporation, in fact, is its autonomy from Government. Although we have made provision here, in fact, to require that in order for the Corporation to do certain things they need to get the clearance of the elected Government. So they require the permission of the Government in order to exercise some of their power. For example, particularly their borrowing. In the United Kingdom, for example, it states that "an Urban Development Corporation, as a body corporate, is totally independent of the Crown and it is not regarded as a servant or agent of the Crown" or, in fact, "its property is not regarded as a property held by or on behalf of the Crown". So therefore the Corporation, as an entity, is one that is given a level of freedom to enable it to do a lot of things that are done by other organisations and other institutions, by local authority bodies, etc. It is a form of public body created by a law. The drafting of the Bill has been based, therefore, on the model in UK. We have looked at the Welsh Development Agency, based on information provided to us by the Foreign Office, with whom we have been discussing the requirement to do something around these lines and the Legal Draftsman has also looked at the model of the GBC Ordinance for information as to how a public Corporation might, in fact, operate.

We see the role of the Development Corporation as possibly developing in a number of different areas. One is the question of the Economic Development Council which is a

commitment we included in our manifesto and which we have not been able to fulfil. The reality is that we have had regular meetings with representatives of trade and with the Unions, but these regular meetings are held independent of each other and primarily to discuss with one side or the other matters that are of interest to them. So they are not brought with the Government into the long term planning process. Although we take their views into account but those views are not cross-fertilised because they are views put in isolation by one side and the other. The whole purpose of the machinery created in the United Kingdom by NEDDY was, in fact, to have a situation where the business community in putting views to the Government would do it in a forum where the Trade Unions would be able to put their own objections face to face, as it were, and that has led over the years when the machinery was effective, which has not been very much in the last few years, because the Conservative administration in UK is not particularly keen on the National Economic Development Council machinery. But in the years of the Labour administration when it was, in fact, a very important part of the planning process, it often led to a situation where it was possible for the business community to understand better the arguments of the trade unions side and vice versa. And, in fact, very recently there has been a situation where the new Chancellor of the Exchequer attended his first National Economic Development Council meeting and found himself in a situation where the union and the business community both agreed with each other and disagreed with the Government. So you have a situation where that forum is possible. Although the Development Corporation in the UK does not have that role, it is a totally separate machinery, in looking at how we need to do certain things in Gibraltar and in the light of the experience of the last two years, we feel that maybe we should be looking at adapting some of the institutions that have been created in UK to do a wider range of things than would be done in UK rather than create half a dozen institutions to do them. So we have a situation where we feel that it is important to set up our manpower planning machinery and the House knows that the training of school leavers is an on-going exercise, the formal machinery of the Employment and Training Board which was something we also wanted to do we have not been able to do. So having looked at the Development Corporation in UK, having decided that we had to find a way of combining a number of different things that we wish to do and try and find an umbrella organisation that would be able to do all of them, and we may find that it is not possible to do all we want with this. In many respects what we have done is copy what we have found in the UK legislation, looked to what there is in Gibraltar in other areas and try and put it together to see if it will give us the vehicle that we need. In addition, of course, in looking at the situation where in relation to Europe there are situations where Gibraltar's overall economic interests may be affected we feel that is valuable, and we are advised that is valuable to have, an organisation which is able to act in defence of Gibraltar's

wide economic interests rather than in a narrow sense. For example, if we look at the situation which arose in 1987 with the Anglo-Spanish Agreement on the Airport and again in 1989 with the amendment to the 1983 Directive, the situation is that if those agreements and those decisions affect the overall economic interests of Gibraltar then there is not anybody other than the Government of Gibraltar responsible for those economic interests. A case in point is when we looked at whether it was possible to involve the company that runs the Air Terminal, in a situation where it would be able to argue that its economic interests were being affected, we were told: "Yes, but it is a very narrow interest. You are going to have to demonstrate how much you are losing per annum in a hypothetical case because you are talking about the revenue of the Air Terminal and nothing else". Where as, in fact, there can be decisions taken that affect a wide of businesses in Gibraltar and there is no organisation that can represent the economic impact globally, this would enable us to do it, we are advised. Therefore in getting forward the proposals, in the Bill, it is not that we are seeking to grant ourselves powers that we do not already have. The fact that we have the power to create the Ordinance must necessarily mean that the Corporation cannot be given powers to do things that we do not already have. Otherwise we would not be able to include such powers in the Bill, by definition. So we cannot charge the Development Corporation with the defence of Gibraltar and we cannot charge the Development Corporation with the handling of foreign affairs and we cannot charge it with any of the things that constitutionally are the prerogative of Her Majesty's Government. Therefore there is no way that we can actually change the Constitution by an Ordinance. The Constitution is a document promulgated by the Queen in Council in the United Kingdom and we cannot change it here. We may be de facto reinterpreting it but we do not need to legislate to do that. We just behave in a particular way and it happens. So I am afraid, Mr Speaker, that all the worries and fears that we have seen surfacing in the last 24 hours in relation to this are no more and no less than all the worries and fears that we have seen surfacing every time we have seen a new piece of legislation brought by us to this House since we were elected on the 25th March, 1989. Now if, in fact, the worries and fears are genuine, and are not just Members opposite making a song and dance because they feel that it is the only way that they can attract attention to themselves, then we will look seriously at any arguments that they put forward and we will see whether those arguments can be taken into account with a view to improving the Bill but not, of course, with a view to negating it. So the Government is open to any suggestion from the other side once they explain to us, in this House, what it is that is upsetting them. I commend the Bill to the House, Mr Speaker.



MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, the Bill is presented with an explanatory memorandum that is very skimpy and has been introduced in the House this morning by a speech from the Hon the Chief Minister that is equally skimpy. What the speech contained was mostly irrelevant to the real purpose and provisions behind this Bill. The Hon the Chief Minister has said very little to justify introducing such a major piece of legislation which has such far reaching consequences. Of course, Mr Speaker, the concept of the Development Corporation is nothing new, it is a mechanism that has been used elsewhere, it has been used and is being used in Malta. There is a Development Corporation there which initially in the days of Malta's isolation was financed by the Chinese and as the Chief Minister has quoted there is the example of the Welsh Development Corporation. These are mechanisms that have been established elsewhere with varying degrees of success and sometimes failure. But whilst we are not necessarily against the principle of setting up such a Development Corporation for Gibraltar, we really doubt whether the very wide powers which the Corporation, and indeed the Government, are obtaining through the proposed legislation are based on similar legislation elsewhere which have the same impact as this legislation, or a comparable impact elsewhere, is going to have in Gibraltar. Where such legislation has been enacted, such as in the United Kingdom, the object is not in any way to breach the well established Western European style of democracy and we very much doubt whether the practical application and impact which this legislation will have in Gibraltar will not, in fact, do precisely that. We are profoundly disturbed by the provisions of this Bill and we doubt if the GSIP Government continues in the same manner as it has been going, and continues in the same manner over the next two years, with legislation which has similar results as this one will have, we really doubt whether there will be much semblance of democracy left in Gibraltar by the time of the next General Election, other than the fact that people, so far, are able to vote every four years at a General Election to introduce a new Government. In fact, Mr Speaker, I think that the objects of the Bill which were read by the Hon the Chief Minister could perhaps have something added to them. It is not just "to secure the regeneration and economic expansion of Gibraltar and to provide for matters connected thereto" but also to provide "for the further dismantling of democracy in Gibraltar". In many matters, in many aspects of life in Gibraltar this Corporation is going to become the Government provided the Hon Mr Joseph Bossano is able to control the Corporation, even after a General Election which

were to see the election of another Government, he would still be able to control many aspects of life in Gibraltar through the Corporation and which, of course, as is his nature, impels him to want to control matters, ie that he should control Gibraltar entirely. Let us consider, Mr Speaker, the way that the Government proceeds with this legislation. The Bill is published at the end of February, a week ago, we get it almost immediately because arrangements are made by your office, Mr Speaker, to ensure that the Bill is circulated. In fact, we had an advance copy, as it were, because I imagine the Government had difficulties in getting the Bill printed and we were given an advance copy in white a few days earlier. However, as far as representative bodies are concerned, this Bill came out attached with the Gazette at the end of the week, the earliest that anybody is going to have an opportunity to look at this is Monday. That, Mr Speaker, does not give much time or opportunity, in fact, does not give any time at all for any representatives bodies to look at the Bill and make representations to the Government. Therefore what happens is that the Chamber, the Trade Union, the Property Owners Association, to name a few, have not had an opportunity to consider the Bill unless the Government in its wisdom decided beforehand to bring them all into the process of consultation. If this has been done before the Bill ever saw the light of day well that is another matter but it would be interesting to learn from Members opposite whether that, in fact, has been the case but I however very much doubt it. I would imagine that the Economic Development Council, about which Members opposite made such a fuss at the time of the General Election and which the Chief Minister has mentioned here this morning, would have been an ideal body to consider this legislation in draft and to advise the Government on its provisions. But, of course, the Economic Development Council has taken something of a back seat and two years after Hon Members opposite were elected into Government it still has not emerged.

One of the most important Clauses in the Bill is that which sets out its objects and general powers and after setting out the powers of the Corporation in subclause 3 of Clause 3 and there are the objects (a), (b), (c), (d), (e), (f), that is six subclauses followed by the powers in subsection 5 (a), (b), (c), (d), (e), (f), (g), (h), (i), that is eight or ten subclauses providing for the powers of the Corporation, which are very wide, and which enable the Corporation to carry out numerous functions, employing people, publishing newspapers and magazines and economic activities, naturally. After that, in case anything has been left out, as if that were to matter, there is then a provision that where anything has been left out "subclause (6) to avoid doubt it is declared that subsection (3)" - which relates to powers of the Corporation - "relates only to the capacity of the Corporation as a statutory Corporation; and nothing in this section authorises such a Corporation to disregard any enactment or rule of law". This

means that if anything was left out it does not matter really because anything that is not covered by these rules is still "OK", the Corporation can do as it wishes. In (4) above, Mr Speaker, "No provision of this Ordinance by virtue of which any power is exercisable by the Corporation shall be construed by limiting the....." Mr Speaker, I am sorry, I looked at the wrong subsection (3). It just goes to show, Mr Speaker, how much time we have had to get familiar with the Bill. Coming back to what I was saying, Mr Speaker, ".....shall be construed as limiting the effect of subsection (3) above". So, Mr Speaker, that subsection that contains, which delineate the powers it is not in any way limited because subsection (4) gives an unlimited power to the Corporation. The Bill, Mr Speaker, also makes provision in Clause 6, subsection (5)(a) and (b) to give power to the Corporation to give financial assistance to joint venture companies. Clause 13, Mr Speaker, provides for money to be lent by the Corporation to persons under certain conditions, loans for building and then Clause 19 provides for Government grants to be made to the Corporation. We wonder, Mr Speaker, and we would like to have some advise from the Attorney-General, if he is able to later on, whether these legislative measures might not be contrary to EEC law on the principle of equality. We would really like to hear the Attorney-General's views on this matter. However, quite apart from this point it is clear to us that taxpayers' money is going to be given to a number of joint venture companies without any public accountability. This is really, Mr Speaker, what we most object to and this is, of course, the pattern that we have seen with the setting up and with the activities of joint venture companies over the last couple of years. Certainly there will be no accountability to this House through whom appropriations, sums of money, are voted for the Consolidated Fund because appropriations are normally made through this House but the Government with this Bill has virtually a blank cheque to dish out taxpayers' money without any public accountability. Clause 6, subsection (5)(c) gives the Corporation very wide powers to employ and to terminate the employment of persons and they are so wide that we wonder whether, in fact, these powers do not cut across the protection which is afforded by the existing labour legislation. And we would ask the Government whether the Trade Unions have been consulted? Have they agreed to this or is it that in fact they have not been consulted and no views have therefore been taken into account? I wonder whether such views matter. I do not know, Mr Speaker, how anyone outside the House is expected to get to know what the provisions of this legislation are unless the Government has consulted them beforehand. Another of the most important clauses in the Bill is Clause 9 which enables land to be acquired by the Corporation. Again, Mr Speaker, very wide powers are being given to the Corporation and we remain to be convinced that the rights to property which are enshrined in the Gibraltar Constitution are not being infringed. How, Mr Speaker, are the rights of property owners going to be safeguarded? Particularly owners of land

next to an area which is going to be required by the Corporation because it is developing a site and there is land next to that site which the Corporation is interested in. Or for that matter how will people, land owners, get protection, for example, subsection (1)(c) "land .....not necessarily adjacent to the area, which the Corporation requires....." If such area is required or the Corporation wishes to lay certain services, sewage, electricity, water, telephone lines through that land. What safeguards do such land owners have? What safeguards does the general public have? Since the land involved could be public land. Again we would ask the Attorney-General if he is satisfied that there is sufficient provision to continue to safeguard the rights of such persons. Together with Clause 14, Mr Speaker, which gives power to transfer the Corporation undertaking, because the Corporation can set up a joint venture company and create an undertaking, that can be transferred under Clause 14 to the other body with whom the joint venture company has been formed. This could cover, it seems to us to allow, and we have not heard anything from the Hon the Chief Minister to make us think differently, the way that we interpret the provisions of the Bill is that it could allow for a situation in which, let us say, Eastern Beach or any other public amenity like Alameda Gardens, could be vested in a joint venture company created by the Development Corporation and another body and then it can be passed on to this other body virtually as they please. And what is more, the Bill then goes on in subclause (3)(b) to provide for the liabilities to be kept within the Corporation but the assets are passed on, it almost seems to be encouraging, Mr Speaker, the abuse or misuse of assets. There are provisions for planning control spelt out in Clause 11 and effectively they render the Development and Planning Commission powerless, they make it redundant. It can be consulted, oh yes, and we all know the meaning which is attached to the word "consultation" by this Government. In real terms the Government is going to become the planning authority and that is utterly wrong. Incidentally, Mr Speaker, Clause 10 also creates a dangerous situation by granting interests over land which can include highways, and other amenities of general use by the public. We must also ask ourselves, Mr Speaker, whether the Government is, through the Corporation, going to involve itself in the manipulation of political activity, political propaganda perhaps I should say, by publishing newspapers, magazines and so on because these are powers being given to the Corporation. In any case is there any sphere of life, Mr Speaker, in Gibraltar which is any longer sacred for the Hon the Chief Minister? Because as freedom increases elsewhere, such as in Eastern Europe, it is directly decreasing in this Westernmost part, this outpost, of the European Continent. Transport, the Corporation is going to be allowed such far reaching powers over transport that it will be able to disregard the powers of the Transport Commission. The powers of the Captain of the Port, if he still has any left, or if there is indeed such an office any longer being filled as that of the

Captain of the Port. And, of course, the functions of the Civil Air Terminal Authority. Clause 16 regulates how the Corporation may conduct its business, or rather it does not, for its powers are so wide that it may do as it pleases when conducting its business. Again, Clause 21 which deals with guarantees and virtually makes the Government supreme. The House of Assembly, that is, Parliament, is by-passed and that is why we say that the Westminster model of democracy is being breached. But this is now becoming the norm for the GSIP. I have no doubt, Mr Speaker, that where Development Corporations have been set up in the UK their role, the impact which they have on the rest of the country is in no way the same as is going to happen here in Gibraltar where the relationship with parliamentary activity, with political and economic activity, is far more accentuated given the size of our community. In conclusion, Mr Speaker, this Bill is obviously very much the Hon Mr Bossano's baby, it is yet another step, a very large step on this occasion, investing more and more power in the Government to enable it to manipulate and to control not just the economy but the ever increasing tendency which it has to do the same in regard of every vital aspect of people's lives. And this baby which the Hon the Chief Minister is creating in the House and which it is going to pass through the House in two days, it will become law by tomorrow, not by today because in Committee we are not going to allow the Bill to be taken as a sign of protest, we will vote against it being taken today. So it will have to be taken tomorrow and it will be seen before very long for the very serious, for the menacing monster, that it is to economic life in Gibraltar.

HON ATTORNEY-GENERAL:

Mr Speaker, there are two points the Hon the Leader of the Opposition raised which he asked me to endeavour to deal with and I will do so to assist this House. When any piece of primary legislation, which has to come before the House, Mr Speaker, is drafted in my Chambers whether by me personally or by someone else, two considerations, of course, arise first and foremost. Firstly, would the legislation be contrary to any existing and applicable EEC law provision? Secondly, and perhaps more importantly, Mr Speaker, would it conflict any of the fundamental rights and freedoms afforded by Sections 1 to 14 inclusive of the Gibraltar Constitution Order. Mr Speaker, those considerations, of course, were given in the drafting of this Bill as they are with every Bill which is prepared in the Attorney-General's Chambers. And I am not aware, Mr Speaker, of any provision of EEC law which the Bill conflicts with in any way whatsoever. If the Hon the Leader of the Opposition has any particular EEC Directive in mind which he thinks conflicts with the provision of the Bill then I invite him to direct my attention, specifically, to that provision and I will gladly give further consideration to the matter and hopefully be able to further.....

HON A J CANEPA:

If the Hon the Learned the Attorney-General will give way, Mr Speaker. There will only be time to do that if the Committee Stage were not being rushed through this House. If a sufficient and reasonable period of time were being given during which such a study could be made.

HON ATTORNEY-GENERAL:

That, Mr Speaker, is a matter entirely for the Chief Minister over which I have no control and do not propose to comment in any way whatsoever. The next point which the Hon Member raised was does the provisions of the Bill in Clause 9 in particular conflict with the principles of the Constitution. Mr Speaker, I had very much in mind when the Bill was prepared the provisions of Section 6 of the Constitution, I think that is what the Hon Member had in mind, which deals with the fundamental rights of protection from deprivation of property. Now, Mr Speaker, you will have noticed, I am sure, that Clause 9(1) of the Bill uses the word "acquire" the Corporation may acquire. It does not say the Corporation may "seize", "acquire" is the word that is used and used quite purposely there because under section 6 of the Constitution it is lawful, and I quote "the taking of possession or acquisition - is lawful - if it is necessary or expedient in the interests of defence, public safety, public order, public morality, public health - and perhaps significantly, Mr Speaker - town and country planning on the development or utilisation of any property in such a manner as to promote the public benefit; and (b) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property". And, of course, Mr Speaker, the Constitution provides that proper and adequate compensation must be promptly paid and Government, I am well aware, has those provisions very much in mind and if the Corporation ever did exercise its powers of acquisition compulsorily under the provisions of Clause 9 the, of course, Mr Speaker, it would have to pay adequate compensation to the person from whom the property in question was acquired. I hope I have satisfactorily covered the points the Leader of the Opposition has raised.

HON P C MONTEGRIFFO:

Mr Speaker, the explanations that have been given by the Chief Minister in introducing this Bill really is, with the greatest respect, totally inadequate when the actual provisions of the Bill are looked at closely and when what is important, an analysis should be made of what exactly the words say as opposed to a limited interpretation as to how these words can be used. If the main object of the Bill, which the Hon the Chief Minister has explained is creation of what is supposed to be an autonomous body to represent

Gibraltar's interests then it is very much a case of using a sledgehammer to crack a nut. And it would seem therefore, from the point of view of an objective onlooker, that the explanation does not really explain as far as it should what it is that the Bill is doing and why the extensive powers<sup>is</sup> seeking from this House to approve are required. The Hon the Chief Minister has said that the intention is to create an autonomous body which will represent Gibraltar's interests. Well, what does the Hon the Chief Minister mean by 'autonomous', Mr Speaker, because it is all very well for him to say that it is not a limited company the shares of which will be invested in the Gibraltar Government. But somebody has to own this Corporation and as a matter of law, I challenge the Hon and Learned Attorney-General to clarify the matter, the Gibraltar Development Corporation can only belong to the people of Gibraltar represented by the elected Government of the Crown. Because at the end of the day there is land that is going to be acquired by the Corporation, there will be contracts that the Corporation will have, there will be the delegation of responsibilities that are Government responsibilities and who is the owner of this? The Government is but then how can you say that it is autonomous? Who the hell are you kidding? With respect, Mr Speaker. Are you kidding the European Community? "Mr Commissioner this now is not the Gibraltar Government responsible for transport, it is a Corporation but we have nothing to do with it, you know, all that happens is that we own it". Secondly, who pays for the Corporation? The Government is going to pay for the Corporation. There is direct provision for funding of the Corporation from the Consolidated Fund. The one that pays, Mr Speaker, calls the tune. And we know very well that the Government is going to pay and we know very well that the body to whom it is going to be responsible is the Government itself. Thirdly, we know and the Hon the Chief Minister has pointed it out, that there are many areas that the Corporation is supposed to take directions from the Government as to what it is supposed to be doing. Well, if the Government controls the Corporation then where is the autonomy? Again, who are we kidding? Fourthly, although the Chief Minister has not said this and I would ask him in his reply to make this clear, who is going to be the members of the Board of the Corporation? I assume it will be Government Ministers and I assume it will be Mr Pilcher, Mr Feetham, maybe the Hon the Chief Minister himself. If it is going to be Ministers well then forget it because this is then really a circus. All we have done is make GSIP Government into GSIP Gibraltar Development Corporation. What I am trying to say, Mr Speaker, is that if the only legitimate, or main reason, that has been put to this House is creation of an autonomous body that will allow Gibraltar to argue a case with more force, say in Europe, because it is not Government but an autonomous body that is transparent and it would not kid anybody. Yet the Chief Minister says that he has advised that this vehicle would be of enormous use to Gibraltar in representing Gibraltar's interests this way. If the idea is

that it is supposed to be autonomous, and he demonstrated to be autonomous, I do not see how we have a chance in hell of proving that that is the case when this is controlled, run and paid for and have on its Board of Directors Government Ministers. If the reverse is the case, Mr Speaker, and in fact there are to be no Government Ministers on this Board, and I cannot imagine for a moment that that is going to be the case, but let us assume that that is the case then that really is one of the most serious threats to public accountability which we have seen in Gibraltar. Because what it would amount to, Mr Speaker, is a very, very large delegation of Government's responsibilities as "defined domestic matters" to the Corporation which is charged with formulating a policy, subject to directions, but it is charged with formulating a policy, which is given powers to act in certain respects, very wide powers, and if Ministers are not on the Board then that would be a complete and utter negation of democracy. Because it would mean that individuals chosen by the Government, not elected and therefore not answerable in any electoral sense to the people, would have power to spend huge amounts of money, formulate policy which rightly belongs to the Government of the day, constitutionally. That then, Mr Speaker, would be the end of constitutional Government as we know it. I cannot assume for a moment that, in fact, the intention is to have members that are not Government Ministers, I cannot begin to suppose that that is the case, but if it is then God forbid, we really have then thrown a lot of our democracy out of the window. As I say, I do not think this is so, but I await with anticipation when the Government replies that Ministers will, in fact, be on the Board and that it will be Government through the Corporation, so to speak and if that is the case, that will explode the myth of a so-called autonomy which is supposed, as I say, the purpose explained by the Chief Minister of bringing this Bill in the first place, I also think that it is important to explain to people that the Agenda of this House does indicate that this Bill would go through all its Stages at this Session, I am not sure whether there has been a change of heart since the Agenda was circulated, then I have given up reminding the Government of open Government, the extent to which people are willing to hear me say that repeatedly must be getting tired but really gentlemen what has happened to that commitment? I am not going to reiterate it, Mr Speaker. The Members opposite have buried it a million times and I cannot resuscitate that corpse. But even if you had no commitment to open Government, a Bill of this magnitude, it is a major Bill, affecting the way Gibraltar is run, to present it to Members on this side of the House and to the general public, effectively, last Thursday and to be asking us, as reasonable parliamentarians, and the citizens in the street to let this go through in seven days is a completely absurd situation. I know, Mr Speaker, that the Chief Minister thinks the House is an obstacle because things take time, but the House exists as a check. There must be checks and balances, one cannot do what one wants today because things

must be explained and I may agree or not agree but you must tell me. This is what Parliament is all about, parliamentary democracy, and people out in the street also have to have a chance to know about it and to make representations. The Chief Minister has criticised us for, us generally on this side of the House, for having pre-empted the debate by going public but, Mr Speaker, if the intention is as published in the Agenda is to take this Bill through all its stages today and tomorrow what does the Chief Minister expect that we are going to sit down here and wait for his explanation then come out at lunch time with two Press Releases, try to mobilise support and then try and block this before we come here tomorrow morning. Mr Speaker, I am the first who works to three in the morning if I have to get things done, I am the first to admit to being a workaholic, if necessary, but unless you are at war and have to do extraordinary things this is not the way things are done in parliamentary democracies. Mr Speaker, you have the Bill published, it is quite common for people to comment on a published Bill and the effects of it and to suggest that there is any type of inpropriety in commenting on this before it comes to the House is absurd especially in the circumstances that I have related. What this Bill is now doing, Mr Speaker, in my view, and the Hon the Chief Minister has not, I am afraid allayed those fears at this stage, is wrenching away, not from this House in particular, although there is an element of this, from Constitutional Government areas of responsibility which are reserved to it. If one looks at exactly what the Bill sets out the Corporation to do, in order to allow it to regenerate Gibraltar, whatever that means it could be some sort of battery, the object is to be achieved by having land and buildings into effective use. What land, what buildings? Encouraging the development of existing and new industries, that is everything from shiprepair right down to the Finance Centre Industry. Encouraging commerce, tourism, creating an attractive environment, that is everything from sweeping the streets to painting the houses to planting trees, ensuring that transport and social facilities, education, health, everything is available to encourage people to live and work in the area and to travel to and from the area. That really, Mr Speaker, is a massive taking away of defined domestic matters from the elected Government to the Corporation. It is a delegation of a huge amount of responsibility. Because if the Government chose tomorrow to say from now on tourism policy, the policy of the Finance Centre, those matters which are now covered by the Tourism Agency, by a Financial Services Commission, the Crown Lands Department gets privatised all that will now come under the umbrella of the Gibraltar Development Corporation which will be responsible for formulating policy and for coordinating the activities of all these areas, in all forms within the ambit of the powers it has, and Government then has the right, under another part of the law, to vote as a block vote. So it can come to the House at Budget time, as I predict will happen, there will be an item that says "Gibraltar Development

Corporation - £40m" and the Government will say that the Corporation now is charged with the following tasks previously the responsibility of Council of Ministers, effectively, to this Corporation because delegation of those functions has taken place. We will then vote those £40m and I will get up and ask: "Yes, but of those £40m the £2m that is going to the privatised Crown Lands Department, how much is going to be spent on furniture because the present furniture is in very bad condition?" Someone will then get up and say: "That is not for me to answer, Mr Speaker, this is the policy of the Corporation and the Corporation will decide". We in this House, Mr Speaker, will vote the £40m and then it is up to them. That, Mr Speaker, is what this Bill is about. This Bill is about wrenching away formal responsibility from the elected Government to a Corporation which, I assume, is going to be run by Government Ministers but which will not allow, therefore, the political responsibility and accountability to affect the Corporation the same way as an elected Government, in Council of Ministers, is responsible. Just to give you an example, Mr Speaker, as you well know, Minutes of Council of Ministers are copied to the Governor, constitutionally the Governor gets to see decisions taken by Council of Ministers, at least he should, Mr Speaker. He gets to see decisions taken by Council of Ministers because, whether we like it or not, and we are not going to go into that now, the UK has a Constitutional role still in the running of Gibraltar and that Constitutional role is enshrined in our Constitution. If you have a Corporation which takes decisions and issues minutes but it is not Council of Ministers then the Governor does not get to know at all. Not only that, it does not allow me to ask Members opposite, as a politician, what decision have you taken at Council of Ministers? Because you will say: "No decision has been taken at Council of Ministers, I have taken it as a Director or as a member of the Board of the Corporation", like you will not tell me now about Gibraltar Painting Services Limited, "do not ask any questions about it because it is not the Government deciding things, this is a joint venture company", it does not matter that the Government owns it 100%, "it is not the Government, therefore do not ask me for explanations". It is one thing for a painting section to be "joint venturised" but another thing to have as an objective virtually and I have to express this as an argument, I must insist on this, the wholesale transfer of defined domestic matters to the Corporation. You can end up with a situation where if the Board ends up being Mr Bossano, Mr Pilcher, Mr Feetham, Mr Baldachino and one other Minister, a minimum of five, to have a quorum, you sit down as the Board of the Corporation, you then have a block vote voted by this House from the Consolidated Fund, politically, and then you decide how to spend without having any need to bring Accounts here. There is no mention in the Bill about Accounts being brought to this House of Assembly. There will be no Constitutional responsibility as a Council of Ministers to be answerable politically, you can say "I am doing this as a Corporation, do not look at me for any



explanations, judge me in four years time". It is not the first time we have heard that, Mr Speaker. That is not the way to run Gibraltar, it is not the way to run any democracy, because democracy does not allow you to do what you want without telling us how you are doing it, with whom you want to do it, for four years, and then we decide whether we like it or not. It is about constantly telling people what is being done and that is why there are checks in the Constitution precisely for that.

If you transfer things to a Corporation why elect a GSIP Government or a GSD Government or an AACR Government? Because really you are being run by the Gibraltar Development Corporation, they are the people running the show, Mr Speaker. With this style of governing politics has gone out of the window. The Chief Minister has sought to limit its application to a smaller area, representing Gibraltar in Europe, or outside our frontiers generally. But quite frankly, Mr Speaker, that is a distortion of what the Bill actually says, the Bill is huger than that. This is not a Trade Promotional Association or the Chamber of Commerce and the Trade Unions forming a body representing the views of people, as an advisory body, this is Government through the Corporation, period. Potentially that is what it is. Do we want that in Gibraltar? Do we want to change, effectively, the way we are run to such an extent that instead of Council of Ministers what happens, or Ministers, in a political capacity, deciding what happens you put on another hat and you say all these responsibilities which empower you under this Bill are to be transferred to this Corporation and we will act under the Corporation, obviously in another guise, in another manner. I just do not think that this is what democracy is all about, Mr Speaker, nor what Gibraltar wants. This is the issue facing us. How do we wish to be run? In a mature manner, democratically with the right to demand information from the Government or in a Mickey Mouse situation where you are not told anything? Mr Speaker, to come to this House with a Corporation equivalent to a Development Corporation done in Teeside, a limited inner city development is, with respect, not accurate. It is misleading because it goes much further. The repercussions, constitutionally, go much further. If I could briefly go through the Bill, Mr Speaker. There are a number of things which demonstrate, at least to me anyway, that this is one of the worst drafted pieces of legislation I have seen coming before the House in my two years in the House. And even if the Government is hell bent on proceeding with this, this is very badly put together. Let me give you an example, Mr Speaker. The main section, section 6(2), the section which basically says that in order to achieve the objects of the Corporation, Mr Speaker, the Corporation will have power to make use of land, to develop industries, etc, it then goes on to say at the end of the paragraph that it can do

all these things in relation to encouraging people to live and work in the area and to travel to and from the area. What area? It is not defined anywhere, nothing. I suppose it is meant to be Gibraltar as a whole but what is the area? Then further down, to confuse matters even more, you have section 9 - the powers of the Corporation to acquire land and in section 9(a) it states: "land in a development area". What is a 'development area', Mr Speaker? I have never heard what a development area is and I do not see any definition in the Bill which statutorily states what a development area is. Is it a Government development area? Is it a private investors development area? This, Mr Speaker, is a major power because one has power to grab land, perhaps 'grab' is the wrong word, to acquire land in a development area. What is development area? This, Mr Speaker, is an absurd system of legislating and things are being done in a half-baked fashion, with respect to my Learned Friend, but I do not think it is his fault, it must be that he is being rushed or other people are being rushed but the Government should spot these things. The main object of the Bill, Mr Speaker, is ambiguous at the end because it actually talks of an undefined area which leaves us all wondering whether it is the whole of Gibraltar. I just do not know, Mr Speaker. It is completely badly done. There are also a number of other matters which require further explanation. For example, the members of the Board are to be appointed by the Governor by notice in the Gazette. There are then powers for the Governor to remove people in certain situations, of course,, directed by the Government. Assuming that it is Government Ministers who are to be on the Board, one assumes that if an election is lost by any particular Government that has Ministers on the Board that there would be a power envisaged in the Governor to remove them, but there is nothing here that says that, Mr Speaker. It may well be a naive point because you will tell me that we would resign the moment we lost an election but there is nothing that says this. I do not for one moment imagine, and I certainly do not accuse of any attempt to linger on and influence in this way after an election, there would be other ways by which you would try to gain influence, but my point is that the draft Bill says that the Governor can send anyone packing if he is absent from the Board, if he is bankrupt or becomes ill or is otherwise unable to discharge his functions. But what happens if he loses an election? What happens if an appointment is made for three years or two years or one year and then, God forbid, there is a bye-election after six months and there is a new Government in? Where is the power? One has to pray that you would all resign out of regard for views of the electorate and out of a sense of fairness. I do not know, you would have to be gentlemen. How can something be drafted in this manner? The employment of officers by the Corporation. One point that has been mentioned is that this will bring about finally, potentially anyway, the complete dismantling of the Civil Service. If there was constitutionally, Mr Speaker, an orthodox opinion, and I am not sure whether an orthodox opinion is respected by Members

opposite, if there was any benefit ever in the impartiality, independence of the Civil Service as a body which has an important role in the Government of the Nation, this Bill which allows people to be employed directly by the Corporation and which potentially allows the Corporation to take over wholesale huge areas of Government responsibility will mean or could mean, potentially the almost complete dismantling of the Civil Service. It would therefore mean as well that if it went that far and there is no reason why it could not, under the terms of this Ordinance, again those constitutional checks, responsibilities, conventions, that are attached to a Civil Service structure with all the difficulties and drawbacks that I know that could cause, would go completely and you will be left maybe with the Police, the Judiciary and one or two others. I do not know how far you can go in privatising, perhaps you can even pay a Judge to hear a case. Mr Speaker, if that is the case, if the intention is to move, potentially, so far as to dismantle the Civil Service that way, and whilst I am the first to accept streamlining and rationalisation of the Public Sector, are we not throwing what is also an important Constitutional element in our democracy? The independence of an administration that is not linked to commercial gain but that has an official independent role. At least that is the way I have always seen the Civil Service. However, if all the functions of Government are divested to the Corporation which will run on commercial lines then you start putting former Civil Servants under pressure and constraints which change the nature of their employment. In certain areas that may be feasible without endangering the way we run ourselves as a democracy, but beyond a certain point I think it becomes undesirable. And although I am not saying it is going to happen, it could happen because there is nothing in this Bill to stop that happening. In the event that it is not going to happen because it is not Government's intention to go that far well then they have to sit down again and start trimming this Bill.

Mr Speaker, the question of public accountability to which I have addressed has been limited to the area which I feel that Government would no longer be acting as a Government but as members of the Board of the Corporation and as far as the House of Assembly is concerned this would automatically mean that this House becomes increasingly more redundant because by not being able to seek explanations politically from the Government this House and its effective role as a check on Members opposite. I think this is what the electors expect this House to be and if they act as Board members of a Corporation the House will become ineffective. I was quite shocked to see that as far as Accounts are concerned although the Corporation is under a duty to submit a report "which takes note and includes the activities, policy and financial position of the Corporation during that year". The Government accepts that report but the House does not get the report, the House does not get any Accounts at all. So we could vote, hypothetically, £40m, it is spent by the

Corporation and no one gets to know of how it has been spent. There is no public accountability. At least with the Health Authority we have had a little controversy because the eventual tabling of the Accounts was being delayed and becoming ineffective as far as control is concerned because they are being published a year and a half after the money has been spent. By that time they may be helpful to historians but certainly not to politicians. However, in their case they are being published and tabled and even if eighteen months later we are shown how the money has been spent. But with the Corporation, Mr Speaker, potentially they will spend huge sums of money with no provision for any kind of tabling of Accounts in this House. How can the Government justify this, Mr Speaker? The money that will be spent is coming from the pockets of the people of Gibraltar. What objection can they have to Accounts being tabled here? Is it an omission? Has something that important been the subject of an omission, Mr Speaker? Was it that in the rush to put this Bill together that this factor was omitted? Things are not being done well in Gibraltar and one must stand up and say enough is enough. Mr Speaker, I am the first to admire the dynamism and enthusiasm of the Chief Minister and his team but Gibraltar cannot be run as though nobody else mattered. The views of others must also be sought and taken into account because Gibraltar cannot be run as if it were the GSIIP Corporation. Mr Speaker, even if they had Gibraltar's best interests at heart things cannot be done without public accountability. The issue before us is how we run ourselves. Mr Speaker, we are voting away parts of our democracy here, this is what we are doing. We are being asked to vote our powers away without the Government even telling us, after a year and a half, how they have done things. Because you are not saying: "Here are the accounts, this is how the money has been spent and here is the Report showing what we have done". Because we do receive the GBC Report and the comparison was made with GBC but we are not going to get anything on the Corporation. Is that what we want, Mr Speaker? I wish to end, Mr Speaker, with a question. Bearing in mind that the main purpose of this Development Corporation is supposedly the creation of an autonomous body and for the reasons that I have given it is incomprehensible to me how such a thing could be argued, I would like an explanation from the Government as to why we need a Corporation in the first place if it is going to be so transparent. Mr Speaker, the economic regeneration of Gibraltar is for the Government to do because that was what they were elected for. They published a manifesto and they have the responsibility to carry out the tasks which the Corporation intends doing. What is the reason for this? Give me a better reason because the one you have given is transparent. What is the reason for this delegation of those responsibilities? Why is Gibraltar going to be better off? Why can we not be governed by an elected Government as we should, Mr Speaker? Acting as politicians in an elected capacity, full stop. That is what politics is about, Mr Speaker. We do not wish to be governed by a Corporation. Why

do we need the Corporation? How are we going to be better off? How are people's democracy going to be improved, Mr Speaker? How is Gibraltar's economic regeneration going to be facilitated by this? I expect, Mr Speaker, something more than the argument that "Ah since it is autonomous somehow we will be able to take steps in Europe, which we cannot now take as a Government". I reject that, Mr Speaker, because they are not going to kid a six year old child with that. How can you when you have Government Ministers on the Board, Government paying for it from money voted by this House? Moreso when the Corporation will act in various matters under the direction of the Government? What really are the reasons, Mr Speaker? Because unless I hear to the contrary I must assume that it is for the reasons that I have expressed and which are that it will be easier for the Government to govern without the pain which they believe opposition and consultation is and in a way which makes them less accountable, and let me add that I do not think it is for any improper purpose, let me make this quite clear. They feel that to get from here to there the quickest way is a straight line and they are determined to go in a straight line. My answer to that is that although that is the quickest route, the proper route in a democracy where you have minorities, opposition, etc is to move from one point to the other and then you get there. If as a result there is a price to pay, a price in efficiency and in speed, then it is a price which has to be paid because we are a democracy. Things are not done by decree, things are done by listening to other people, by taking other views into consideration and by those checks and balances and not through people but with them consulting them and bearing their views in mind. Government is not all powerful, it has limited functions with constitutional and political constraints. For these reasons this Corporation, as it stands at present, Sir, would detract from that system which we all enjoy. Thank you, Mr Speaker.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, clearly nothing that I have said or nothing that I will say is going to alter the judgement that Members made before we came to the House which, I am afraid, was what I suspected was going to happen when I stood up because I said: "Fine, they had made a judgement on looking at the Bill, they had not waited till they came here for me to tell them about the Bill and what it is that we intend to do". They then say they are not happy with the explanation that they have been given and they continue saying a lot of things which, frankly, suggest that as far as they are

concerned they are on a high and they are going to stay that way irrespective of what the reality is. I do not know whether the Hon Member opposite is right and this is a Mickey Mouse Bill or a Donald Duck Bill or a Goofy Bill but we certainly have powers here to create a Disneyland in Gibraltar and that might keep him happy. But I can tell him one thing, he has been more consistent in defeating every one of the arguments that have been put against the Bill than anything that I could have said. Because if, in fact, the Bill is totally transparent then it is not anonymous and it cannot do anything that the Government can do already then not only is he right in saying: "Why do we need it?" but he should also be saying: "Why am I objecting to it?" That is the position that he has taken. He has taken us, Mr Speaker, a full circle. He started off by telling us that this Bill would not fool anybody and he asked us who were we trying to kid. Well, I ask him who is he trying to kid? The people of Gibraltar? Because he says that all the powers that exist in this Bill worry him presumably because it would enable the Gibraltar Development Corporation to do things that the Government cannot do.

HON P C MONTEGRIFFO:

No, I have not said that, Mr Speaker. If the Hon Chief Minister will give way.

HON CHIEF MINISTER:

Mr Speaker, I think I know what he said and I would like to finish what I am saying.

HON P C MONTEGRIFFO:

Well, it does not appear to from what the Hon the Chief Minister is saying.

HON CHIEF MINISTER:

Well, I suggest if the Hon Member sits down and lets me finish, like I have done with him, he might then see that I know what I am saying. He says that the Corporation can do things that the Government cannot do without having to come to the House and obtain the approval of the House. That is what he said. Because he said that the democratic controls are being taken away. He said 'a straight road might be more efficient but the roundabout way is more democratic', that is what he said. So he is saying that the Development Corporation is going to be able to do things in a straight road without having to come back here and get the permission of the House and the Government cannot do that, that is what he is saying.

HON P C MONTEGRIFFO:

Potentially.

HON CHIEF MINISTER:

So if the Hon Member had let me finish he would have found out that I was correct in my analysis because I had paid attention to what he was saying and I made notes, Mr Speaker, like I always do when somebody else is speaking. Of course, the reality of it is, as I started off by saying, that what the Government cannot do is legislate away the powers of the House or create in an Ordinance something which is superior to the House of Assembly which is the body that passes the Ordinance. The Member opposite quite rightly said that it is not a question that he suspects that if the GSLP lost an election the GSLP would wish to continue to be the directors of the Gibraltar Development Corporation notwithstanding the fact that the AACR or somebody else might be in Government. But, of course, even if the GSLP were to wish that, which is a ridiculous assumption as he himself recognises, there would be nothing to stop the new Government in the first meeting of the House of repealing the Gibraltar Development Ordinance and the GSLP would then cease to exist as directors of something that had ceased to exist because there is nothing that we can do or that anybody can do in any parliamentary system short of abolishing Parliament, to prevent any future Government undoing what a previous Government did. This is why we are being so successful in undoing all the damage of the last sixteen years of the AACR because we are able to undo all the things that they did, otherwise we would be stuck with them. We are stuck with more than we want but we are having a go at undoing things. The Government, Mr Speaker, brought the Bill to the House with the timing which was influenced by other considerations and we are prepared to leave the Committee Stage for a subsequent date to give Members opposite, as I have said, if they are really concerned about specifics in the Bill and they want to put to us proposals for improving the Bill or for introducing the safeguards that they think are needed, then we are prepared to take a look at them and see whether, in fact, they are compatible with the objectives that we want the Corporation to have. What we are not prepared to accept are amendments that negate what the Bill sets out to do. I have made that clear when I moved the Bill, Mr Speaker. That we were prepared to consider some points if they were concerned in producing a better Bill for the reasons that the Member opposite has said that it is not well done, obviously the drafting is not something that I have got as much knowledge about as the Hon Member opposite because I am an economist and he is a lawyer and lawyers draft things and economists produce the money to pay the lawyers. But if, in fact, conceptually it is totally unacceptable then we might as well pass it tomorrow and be done with it. Why bother with delaying something so that we can finish up with a better Bill if it is, in fact, in principle, conceptually unacceptable to the other side not because they feel that there are things in it that could give theoretically somebody powers that the Government does

not already have which I submit is nonsense. I submit it is not possible to extend the powers of the Government by creating a Corporation with more powers than the Government already has. It is not something that can be done, even if anybody wanted to do it and nobody is trying to do it. So we have a vehicle here which will allow us to delegate some powers if we choose to delegate them. It will also allow the vehicle to do things in addition to the Government doing them. The fact that you have got a Corporation that is charged with doing certain things does not mean that it is now prohibited that the Government should do it. There is nothing here that says: "This is in substitution of Council of Ministers". So on the one hand we are being told that if the Corporation is granted autonomy and is not, in fact, run by Council of Ministers that that is the end of democracy in Gibraltar because the Corporation will be doing things that Council of Ministers cannot control. On the other hand if the Corporation is run by Council of Ministers then it is transparent that it is Mickey Mouse. Well, I am not sure which it is that he wants us to do. Does he want it to be transparent and does he want the Government of Gibraltar to transfer its corporate entity into the Corporation or does he want the Corporation to operate at arms length from the Government? Which is it?

HON P C MONTEGRIFFO:

We do not know what the Government wants to do?

HON CHIEF MINISTER:

We know what we want to do, Mr Speaker, but if he objects he must object to one or the other. He cannot say: "I am against the Bill because it is black and I am also against the Bill because it is white". Because the Bill, in fact, is clear.

HON P C MONTEGRIFFO:

If the Hon Member will give way. Mr Speaker, the point that the Chief Minister is not addressing is that we do not know how the Corporation is going to be structured. Will he please tell us? Are there going to be Ministers who are going to be the Board members in which case that will reinforce one scenario? Is there, in fact, going to be a delegation of responsibilities which now can be identified so that he can put our minds at rest? If so, we could limit the Bill accordingly. Let us limit it to Transport or to Port matters or to whatever. What I am saying is that you cannot ask us to determine how far this is going to go if all we have is a framework which allows you to everything but you are telling us "We may not do everything". For example, will Ministers be on the Board?

HON CHIEF MINISTER:

Mr Speaker, that is not the point. The point is that the Hon Member says that if there were Ministers on the Board he would object to Ministers being on the Board because that would make it transparent and pointless and if there were not Ministers on the Board he would object for the other reason. So what is the use of him asking me which it is? He has already told me that whichever it is he is against it. What is the point?

HON P C MONTEGRIFFO:

We will know which.....

HON CHIEF MINISTER:

Mr Speaker, the Hon Member will have the right to speak as many times as he wants in the Committee Stage and he has had the right to speak for as long as he has wanted in the general principles of the Bill and I am answering the points that he has already made. And the point that I am making is that I believe that if Members opposite are genuinely worried as they say they are, and this is not just an exercise in political histrionics, then their worries can be put at rest like they have had a number of other worries before about a number of other things which have not materialised because they have read too much into things on a number of pieces of legislation that we have brought here. The number of disasters that Gibraltar should have experienced in the last eighteen years.....

HON M K FEATHERSTONE:

Eighteen months.

HON CHIEF MINISTER:

Sorry, eighteen months, yes. It seems like eighteen years.

HON M K FEATHERSTONE:

That is wishful thinking.

HON CHIEF MINISTER:

No, the wishful thinking is forty-one years because that would make me ninety-one. If one were to go back to the Hansard and look at all the predictions that have been made here every time we have brought a piece of legislation there would be nothing left for the Gibraltar Development Corporation to organise, it would have all been gone by now. I can tell the Member opposite that his predictions about what is going to happen in this year's Budget are total nonsense. And I can tell the Member opposite that, in fact, the power to give a grant to the Development Corporation is

a power that is exercised if we put money to do that in the Estimates and when the House votes the money obviously it votes the money because the Government exercises its majority like it has always done ever since the Constitution was created and the House of Assembly was created. This does not mean that if we remove from here the fact that the Gibraltar Development Corporation can be given a grant by the Government the Government can no longer give it a grant for creating a new situation where we say: "Because we have legislated we can now give money to the Development Corporation". No, the power to give grants to anybody is already in the law and if he looks at the Estimates he will find that every year the Government gives grants to different people. There is not a law in each case saying: "A grant may be given to so and so". So in each one of the supposedly wide powers that we are creating, all that we are doing is reflecting here powers that are in existence. And if we are giving the Gibraltar Development Corporation a function and role it is not because we want to create an independent Government in the Gibraltar Development Corporation in competition with the official Government or because we want to hide the minutes of Council of Ministers from His Excellency the Governor, who is no doubt very grateful for the concern of the Hon Member opposite that he should read our minutes. He can always move an amendment saying that he should also have the minutes of the Gibraltar Development Corporation if that should keep him happy. That is not the object of the exercise. The object of the exercise are the things that I have spelt out and I can assure the Hon Member that everything that I have said is documented in the study that has been carried out leading up to this and what we have got here is, in fact, a hybrid drawn primarily from two sources: the UK Development Corporations and the situation in the GBC Ordinance. It has been put together and it is possible that it can be improved upon and we would welcome attempts to improve it because we think it will be a good thing to have this vehicle that will enable certain things to be done more expeditiously than the way they are being done at the moment and it could become for us the vehicle to do certain things that we have wanted to do and have not been able to do because they have been competing with the resources in manpower and so forth that we have had to devote to the things that are not done. Since we find that we have not got certain things which we think are valuable and important particularly when we are looking into a situation over the next two years where we see the need for forward planning as being absolutely essential to economic management, we saw an opportunity in using the legislation that we are borrowing from UK. We saw an opportunity of perhaps being able to integrate that planning machinery into the system and to do it faster than if we try and do it through three separate pieces of legislation. We are trying to do it in a way which produces better value for money which is the essence of all the changes that we are bringing in and in order to bring in better value for money it is not that we are doing a disservice to the taxpayer of



Gibraltar, it is that we are protecting the taxpayers of Gibraltar. And if the Opposition is here to do anything at all, it is here not to press us because we are doing too much in getting value for money but to press us to do even more. That is what Oppositions exist for. Oppositions exist to make sure that the Government of the day is using the people's money efficiently and this does not prevent them from doing that, Mr Speaker, because this creates an institution which can have its own sources of revenue from its own activities, for its own purposes but which at the end of the day is controlled ultimately by whoever happens to be the Government of the day like anything else that is legislated and can be changed at any time. As I have said, if Members opposite feel that they can spend more time going through this and suggest things which we may find do not create any problems, then we are quite happy to change it as long as the whole idea is not to emasculate it but to either overcome worries that they may have or to clarify things that they may feel are not clear.

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 K W Harris  
The Hon P J Brooke

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 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 will be taken at a subsequent meeting of the House.

HON A J CANEPA:

Mr Speaker, from our point of view, of course, this is welcome in the sense that it will give interested parties, the representative bodies that we have referred to, an opportunity to look at the Bill and consider its implications and make any representations that they may consider fit. However, the Opposition's approach and our attitude to this Bill is not the same as what it was, say, with the Financial Services Bill where we gave up a great deal of our time and efforts in improving a measure of legislation that we were wholeheartedly behind because it was something which we had wanted to bring during the latter days when we were in Government. We have fundamental objections to this legislation. In other words, if we were in Government we would not be bringing this piece of legislation to the House and therefore whilst in Committee there are a few relatively minor points that I would want to bring to the attention of the Government where amendments may perhaps be required. Our approach is not going to be that between now and Committee Stage we will be introducing substantial amendments that will alter the shape and purpose of the Bill because obviously that would not be acceptable to the Government and it would really be a waste of time and, as I say, we are not in favour of the Bill in any case. As I say, we have a few minor points which having regard to the importance of the Bill in principle, we did not think that we should mention during the Second Reading of the Bill but when the Bill comes up in Committee we will be indicating, without necessarily moving the amendments ourselves because they are very minor, we will be indicating certain matters which, may have been lost sight of. I just want to make that clear so that the Government does not think that we are going to do what we did with the Financial Services Bill because we will not. But we do welcome the fact that it should be left for a subsequent meeting because we have had about a week's work on this Bill but other people now they may, as a result of the debate in the House, some people may now feel that they shall have a look at the Bill and if no representations are made then, well and good, it will have been a useful exercise in consulting the public nevertheless.

THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

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

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the House will recall that on the 16th day of November, 1988, various amendments were made to the Merchant Shipping Ordinance by virtue of the Merchant Shipping (Amendment) (No.2) Ordinance, 1988, which made changes to the Registry Rules under Part 1 of the 1894 Merchant Shipping Act. Further legislation is necessary to bring our legislation in line with the UK otherwise our Registry will not get all the international approval it needs and the credibility that is necessary to expand and penetrate the shipping market. The principal changes in this Bill now before the House are amendments in respect of the payments to the crew, the safe condition and operation of the ship, to create offences associated with these matters and to impose related penalties. By this legislation we are also extending the permissible nationalities of the Master, Chief Officer and Chief Engineer so that the requirements are similar to that required by UK legislation and therefore laying the groundwork for further extension of the nationality provisions once negotiations have been completed. These amendments are necessary, Mr Speaker, as ships registered at this Port are registered as British ships and are governed by the Merchant Shipping Act of 1984 and 1988. As ships can be transferred from the UK register to ours and vice versa, it is necessary that our Merchant Shipping legislation be identical to that appertaining to the UK. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we welcome this Bill and we will be voting in favour. It seems to complete, barring any further legislation which may be enacted in the United Kingdom, the process that was initiated some years ago of bringing our legislation up to scratch and, in particular, in line with the relevant United Kingdom Merchant Shipping Act. There are a number of provisions in this Bill that I particularly welcome and which are highly desirable. I recall that there have been occasions in the past when industrial action has had to be taken in order to prevent a ship from sailing because the crewmen were owed arrears of wages and salaries. The Transport and General Workers Union sometimes at the request of the National Union of Seamen from London has had to resort to such industrial action here and therefore it is very desirable that this provision, that this protective measure should be introduced into our legislation. I also welcome, particularly having regard to the fruitless efforts that I made over a very long period of time, Mr Speaker, in

trying to liberalise the requirements for Masters, Chief Officers and Chief Engineers where the absolute strict requirement was that they had to be British Citizens. I remember, Mr Speaker, it was a very frustrating experience, I even tried to take advantage of the Falklands conflict when I remember because naturally it suited Britain's defence interest, ships were allowed to sail and one sailed from Gibraltar with a Swedish Master and this was allowed, there was no problem about that and this was precisely the sort of thing that we had been trying to do, that we should be able in registering a vessel to have a Master who was a citizen of a reputable nation in the world of shipping and Sweden, Norway and, indeed, the other EEC members were all reputable and are all reputable mercantile nations. But, nevertheless, the representations and the points that we made, perhaps they were not agreed to because the other legislation of implementing the provisions of the 1984 Merchant Shipping Act were still to come. So I am glad to see that in Clause 7 there is provision being made whereby the Governor may exempt any person from the provisions of this subsection. I wonder whether the Hon Member perhaps when he exercises his right to reply, may explain whether it is, in fact, the intention not just for the categories of nationality which are spelt out in the Bill but these other reputable mercantile nations and, indeed, EEC citizens.

HON P C MONTEGRIFFO:

Mr Speaker, in welcoming the Bill I give it a qualified welcome inasmuch as although the Bill in itself is something which I would agree with, it is presented to this House by the Government on the basis that it should be another step towards improving the performance of the Gibraltar Registry as a centre of business and as a centre of income for Gibraltar. There were attempts recently, as far as I understand it, there was something in the Gazette to this effect, to actually derive benefits from the collapse of the Panama Registry and the opportunities that might have existed for us in that respect. I do not know to what extent Gibraltar has been successful, not particularly so, I understand, but my qualification to the approval is the fact that the Port Registry and the system which is presently in operation leaves more than just a little bit to be desired, from a practical point of view and I am always loathe to pass legislation which on paper shows Gibraltar to have a very good service or potentially to offer a very good product when we cannot deliver if the customer turns up seeking to purchase. Therefore I would ask the Minister in his reply, Mr Speaker, I think it is within the context of the general merits of the Bill that what the Bill is doing, to indicate whether the Port is going to come under the Corporation which seems to be indicated in one of the subsections of the Bill or alternatively what other type of action to enable the legislation, in a practical sense, to get on with more significant business for the benefit the community. Thank you, Sir.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, first of all, I would like to thank the Members opposite for their general support to the Bill. In fact, what it does do is more or less complete an exercise of bringing us in line with the relevant UK legislation. I did say that we want to extend, in response to the Hon Leader of the Opposition, the nationality provisions to other reputable nationalities and it is still a matter of ongoing discussions with the DTI and other people. I think, in essence, in today's situation it is not a valid argument anymore where British Masters or the new nationalities that have been agreed. We should not limit the provisions, for example, so that in time of war the British Government could step in and use the vessels in their defence interest. I think that that is no longer a totally valid argument and in any case, if one thinks about it seriously, the question of being able to find those ships quickly in the time of war, wherever they may be, is indeed a difficult exercise in itself. So the strong arguments that existed some years ago are beginning now not to hold such strong basic grounds and therefore we are moving to a situation where it is more than probable that we will be giving it to other reputable nationalities.

HON A J CANEPA:

If the Hon Member will give way. This point that he has made about defence as the reason being valid to this liberalisation. That was an argument that we also deployed. But apart from that being the reason there was, I think I may have mentioned it in the House in the past when I had responsibility for the Port and perhaps I should remind the Hon Minister so that he can keep it in mind, an additional reason that was also adduced against allowing other categories of nationalities, the Masters was the question of jurisdiction. As the Hon Minister knows ships very often disappeared from the high seas and the intention was that by the Master being a British Citizen he should be subject to British jurisdiction whereas if it was a citizen of some other country that might not be the case. So I think he will also find, if he has not found it already, that the DTI will also bring that argument up, the consideration or jurisdiction.

HON M A FEETHAM:

That is the case and that is an argument that is being put. But in terms of jurisdiction if one considers the tendency now in terms of registry and in terms of European Community obligations and Directives and working towards a common European Registry, matters of jurisdiction then could turn

out to be not necessarily vested in a particular country but it could be vested in a more centralised authority in due course. There is a tendency to change and therefore we are taking every opportunity, as it is a longstanding issue, of trying to improve the capacity of our Registry. In terms of the point made by the Hon Mr Montegriffo when he talks about the organisation or the ability of the Registry in Gibraltar to respond, I would agree with him on that issue. The Government has already said and it is on public record and it has been mentioned today, that we are looking very seriously at the complete restructure of the Civil Service and there are priorities as to where one starts and one finishes. We are looking closely at the Shipping Registry because we feel that in looking at the economic activity of Gibraltar and where we are likely to be able to improve revenue, the Registry itself cannot be disassociated from other aspects which are happening, ie the revenue which is raised, for example, by solicitors in the business that they themselves are carrying, both are very inter-related in the sense that in a substantial part of the initiative in placing a ship or mortgaging a ship on our Registry is initiated by the solicitors and Chambers in a legal practice. And I think it would be very positive to look at the relativity between both so that Government's contribution to the Registry and improvement of the Registry is recognised by the people who are ultimately making a substantial revenue to themselves and at the same time promoting the efforts of Gibraltar in doing the Registry. I think there is a very good argument looking closer at the activities of the Registry and protecting the conflicting interests that could emerge by having the register obviously in the presence of the Captain of the Port or somebody appointed by the Governor with the necessary qualifications to be able to carry out the job and the activities of the solicitors and lawyers in Gibraltar. That is the thinking at the moment that the Government is doing and is in consultation with various people in the industry so that we have a proper shipping industry, as it were, in every aspect in Gibraltar.

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

HON M A FEETHAM:

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 BUSINESS TRADES AND PROFESSIONS (REGISTRATION)  
(AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Business Trades and Professions (Registration) Ordinance, 1989 be read a first time.

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill in front of us introduces amendments to minor procedural matters connected with the principal Ordinance which is still to be brought into effect. It provides for an alternative Registrar in place of the Department of Trade and Consumer Affairs. At the same time as the matters dealt with by the Ordinance falls clearly within the portfolio of the Minister for Trade and Industry, it is considered appropriate for the Minister to be the authorised officer for regulations relating to the operation of the Register in place of the Governor. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, if the reality of the situation is that the Department of Trade and Consumer Affairs is, to all intents and purposes, being wound up as rumour has it - one should not speak on rumour but on facts, Mr Speaker - and then I suppose that this Bill is a logical consequence of that. If it is the case, therefore, that the post of Director of Trade and Consumer Affairs is being abolished and that there is no intention, therefore, because if it is abolished it is not a case of a vacancy which is to be filled at a future date then, obviously, there is a requirement for someone else to perform the functions that is if there is someone else left in the Civil Service any longer. What I find somewhat puzzling, Mr Speaker, is this. When Hon Members came into office the post of what was Consumer Protection Officer, the functions of that post were widened to include trade and that was indicative of the fact that the Government attached importance to trade in Gibraltar, which I know that they do, because we all do. Therefore I find it somewhat puzzling that the functions of that post which were

widened, now all of a sudden or a short while later the post is, in fact, being abolished, the Department apparently is going to virtually be wound up and therefore the need arises to have someone else as Registrar and perhaps we might also have an indication what type of Civil Servant is it intended to be the Registrar. Is he going to be involved in any way with trade by being, say, a Treasury person or is it somebody else? Perhaps someone having some involvement with trade who is employed in the Treasury or just anybody else?

HON P C MONTEGRIFFO:

Mr Speaker, I will be voting against the Bill not because I have any desire not to have the Minister exercise powers which are, in a sense, more appropriate for him to exercise than the Governor but because the principal Bill from which it stems was something which, at the time, we did not support on the basis that it was bad legislation. It was certainly, in my view, bad legislation because we felt it was unworkable in that it would require even, for example, and I remember this clearly that if school teachers undertook private lessons they would have to register. We took the view, at that stage, and I certainly take it even today, that the legislation is not really workable and therefore although I do not object to the technical transfer of powers, maybe it is more appropriate for the Minister to exercise these powers to remain consistent I will be voting against.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, the Hon Mr Montegriffo is quite correct, that is the position he took and if I recall correctly, in fact, it was the position taken by the Opposition at the time and they projected to the people of Gibraltar what my colleague, the Chief Minister had previously indicated as one of the horror stories that the Government was embarking upon. It has not happened and if the Hon Member recalls the very essence of the Bill that we brought to the House was based on representations made to us by small businesses who were being subjected to unfair competition from other people particularly from businesses penetrating Gibraltar from Spain and not meeting any obligations over here. The only way, at the time, that we considered after taking legal advice was that this was the way forward to protect these businesses and therefore we introduced this Bill on the basis of having to have a registration system. The fact that we have not put it into effect is because it has taken its course in the sense that we have, of course, acquired more experience as to the time that it is likely to take us in our efforts to restructure the Civil Service which the Hon

Member keeps on harping about and for which we have the responsibility of doing, in order to be able to make it more efficient and make it a more cost effective exercise to the taxpayer than what has been the case prior to us taking up office. In terms of this particular amendment which at the time we did, as the Hon Leader of the Opposition quite rightly said, extend the role of the Consumer Protection Officer and Chairman of the Trade Licensing Committee. It was extended to a bigger role in terms of trade because I felt that there was a need to bring someone more closely in matters that were related to trade in terms of representations that were being made to the Government and I required that somebody should be looking at that. The realities are that it has not worked out, the realities are that it involves me personally in more work than I envisaged was possible at the time of making the decision so in.....

HON P C MONTEGRIFFO:

Mr Speaker.....

HON M A FEETHAM:

I have not given way. The Hon Member has the habit of standing up without anybody giving way and he ought to learn by now that I will never give way to him. So a number of things are happening within the Ministry of Trade and Industry which will, of course, be made public once we have put them into place. A serious restructure is taking place in the Ministry of Trade and Industry which will be known in due course. And in the light of experience therefore and in the light of the open Government attitude of this Government where new ideas come onboard as we develop our policies, we have decided that in this case the position of Consumer Protection Officer by agreement should be abolished and this will take place. Therefore, until we have decided who will be responsible for what within the Ministry which will be in the course of the next few months, we have brought this amendment which will take effect the moment that the principal Ordinance itself takes effect. So there is nothing sinister other than, in fact, learning from more recent experience as to the changes that are required.

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 K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

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 Dr R G Valarino

The Bill was read a second time.

HON M A FEETHAM:

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

This was agreed to.

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

THE SOCIAL SECURITY (NON-CONTRIBUTORY BENEFITS AND UNEMPLOYMENT INSURANCE) (AMENDMENT) ORDINANCE, 1990

HON R MOR:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Social Security (Non-Contributory Benefits and Unemployment Insurance) Ordinance be read a first time.

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



SECOND READING

HON R MOR:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is similar to that of a Bill which was introduced in 1983 and time expired in 1985. The reason that this Bill was introduced in 1983 was because of the then impending closure of Her Majesty's Naval Dockyard and the likely redundancies which were envisaged at the time. The idea was that persons who were not EEC nationals and who became redundant could have the option of collecting their unemployment benefit in a lump sum on application to the Director of Labour and Social Security. The intention was that these persons could find themselves with an amount of money which could enable them to have the opportunity of attempting to seek work elsewhere given that the likelihood of finding work in Gibraltar was considerably reduced. We have already had some redundancies in GSL and the Ministry of Defence has, in fact, made some people redundant already, and with the announced withdrawal of the Resident Battalion and the changes on the PSA/DOE role in Gibraltar, it is clear that the civilian labour force will be facing some redundancies in the future and the Government considers that there will be considerable difficulties for persons who require work permits to be able to continue to be in long-term employment in Gibraltar. The Government has therefore decided to introduce enabling powers to the Director of Labour and Social Security to use his discretion to pay unemployment benefit as a lump sum where the applicant has been made redundant and there is apparently no likelihood of future employment in Gibraltar. This Bill also makes provision to deal with a situation where an applicant who, after having received a lump sum payment finds employment. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, the official Opposition support the Bill. This Bill, as the Minister has stated, is akin to the steps we took when we were in office and after the closure of Her Majesty's Dockyard and we did this in consultation with the unions at the time and we agreed to do this. The Government now intend to make it law and we approve of this. Let me

also say that this measure will also help the Department in its workload because the Department does a tremendous amount of work. I note that the provisions only relate to those persons who are not Community Nationals and I wonder whether consultation has taken place between the union and the Moroccan Workers Association because they will be the mostly affected and whether they have expressed an opinion as to the measures that are going to be taken. As far as we are concerned, on this side of the House we welcome the Bill. Thank you, Mr Speaker.

HON P C MONTEGRIFFO:

This Bill, as far as I am concerned, Mr Speaker, I can support but I only have one query which I may be told can be satisfied quite easily and I speak, therefore, not entirely sure of what the position would be but I raise it because it might be important. The Bill clearly states that if an individual finds employment in Gibraltar that the benefit is returned which is simple enough. I do not know the position exactly in respect of an alien worker who may seek to set up a business of his own or becomes self-employed, from the immigration point of view, but I would think it not impossible that somebody is made redundant in, say, a butcher's shop and decides that he is going to open his own butcher's shop and does not actually become employed in that capacity but becomes self-employed. I make the point with some trepidation because from the Immigration Ordinance and Immigration Rules point of view, Mr Speaker, I do not know to what extent a person has time in Gibraltar before eventually having to leave to actually set up in self-employed occupation. But I think it might be a point worth looking at from the point of view that if, indeed, there is a possibility of people setting up business on their own even on that level. A chap might start selling flowers and the moment he becomes self employed selling flowers at the Piazza it would be quite wrong that he should not reimburse funds to the Government. That is the only point, Sir, that I would raise that could perhaps be dealt with.

HON CHIEF MINISTER:

I think the area where non-Community Nationals set themselves up as self-employed is somewhat nebulous. There is a right of establishment which Community Nationals have but that right of establishment does not apply to non-Community Nationals and, in fact, somebody that is self-employed does not have a work permit because he does not have a Contract of Employment and consequently is not

covered by Unemployment Benefits. So a self-employed person is not insured against unemployment. From my knowledge I can say that the Moroccans or other non-Community Nationals that have effectively set themselves up in business have tended to overcome it by incorporating a company here and then being employed by the company that they own and it may well be that there is really no other way in which they can do it. I think that the right of a worker to stay here in Gibraltar once he ceases to have employment under the Immigration Control Ordinance is very, very limited and it is administratively extended to allow the person to seek employment but I do not think the law was ever intended to provide for, although at one stage non-British citizens and subsequently non-EEC citizens were allowed to come to Gibraltar to seek to set themselves up in business, that was never there and I do not think the law is clear that they can do it legally. But obviously there are ways of getting round the legal impediment but if they use the machinery of setting up a business and employing themselves then they would be covered by what we have there. But I think it is certainly something that we will ask the Director to look at.

MR SPEAKER:

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

HON R MOR:

Mr Speaker, all I really would like to say is that I appreciate that both Oppositions are in support of the Bill. Thank you, Mr Speaker.

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.

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I believe this House would normally expect a Bill to amend the Imports and Exports Ordinance to be presented either by the Hon Minister for Trade and Industry or the Hon Financial and Development Secretary. However, in addition to the provisions which this Bill contains affecting imports and exports per se, it contains important amendments to certain existing criminal provisions and I have therefore agreed to present it to this House. Sir, clause 2 empowers the Governor, by subsidiary legislation, to vary in any way whatsoever the rates of import duty contained in respect of those classes of dutiable goods specified in the various chapters contained in Schedule I of the Ordinance. And as the explanatory memorandum of the Bill points out his powers at present are restricted to reducing such duty or to abolishing it altogether. As Members are aware, Mr Speaker, under section 16 of the Ordinance, the Governor already has power to restrict, regulate or prohibit the importation of any goods or any class of goods. Following on from that, clause 4 of the Bill empowers the Governor to make regulations, from time to time, providing for the payment of fees paid on the export of duty free goods in the circumstances which currently are provided for by section 74 of the Ordinance. This new provision, Mr Speaker, will give Government the flexibility it wishes to have to remove, add to or otherwise vary such fees as Government sees fit, from time to time, in the same manner as with import duties. Clauses 3 and 9 effect the appropriate consequential amendments to the Ordinance arising from the repeal and replacement of the existing section 74 which, as I have just said so, is effected by clause 4. Clause 5 of the Bill amends section 85 and what is deemed to be the time of exportation. Mr Speaker, it is considered that the present provision specified respectively in the section at the beginning and in the proviso, are capable of ambiguity and uncertainty and the Collector of Customs who, of course, has many duties and responsibilities under this Ordinance, wishes there to be no doubt when the exact time of exportation is deemed

to have occurred. Mr Speaker, Members may think that clause 6 is especially important because it substantially modifies the provisions at present contained in section 112. The proposed new section has been modelled on the provisions of the United Kingdom Customs and Excise Management Act 1979 and section 89 of that Act in particular. I have not included a reference to that Statute in the heading of the proposing section because it does not follow the exact or precise wording of the corresponding UK legislation. I mention that, Mr Speaker, because I have heard the very helpful comment made in that respect by the Hon Mr Montegriffo at the last meeting of this House. Turning next to clause 7 of the Bill, this will extend the Courts' powers of mandatory forfeiture of vessels to offences of carrying dutiable goods on which duty has not been paid without the Collector's permission on ships of less than fifty net tonnes, that is section 94, Sir, and selling goods from ships while in the Port other than a ship duly licenced for such purposes, that is section 95 and the omission of the reference here to section 96, Mr Speaker, is merely to correct an error which apparently crept into section 120 when the previous Ordinance was repealed and replaced by the present Ordinance in 1986 which does not appear to have been noticed previously as section 96 actually relates to appeals by any person dissatisfied with a decision of the Collector. Finally, Mr Speaker, clause 8 amends section 124 which deals with the Port's discretionary powers to order forfeiture of certain ships, aircraft or vehicles involved in the contravention of particular provisions of the Ordinance. At the moment that section limits the Courts' powers to deciding whether or not to order forfeiture to offences of unlawful storage of dutiable goods contrary to section 31, concealment of imported goods contrary to section 103, unloading goods with intent to evade any prohibition or restriction or to defraud Her Majesty's Customs contrary to section 104, fraudulent evasion of duty contrary to section 105, and unlawful possession of dutiable goods which contravenes section 106. The amendment to section 112, Mr Speaker, extends the Courts' powers to offences, firstly of unlawful unloading from ships, aircraft or vehicles, that is section 19, and the offences specified in sections 94 and 95 which I have made reference to already. Mr Speaker, Hon Members will notice that offences committed contrary to sections 94 and 95 are to be included in respect of both the Courts' mandatory powers of forfeiture under section 120 and the discretionary powers under section 124. That, Sir, is not an anomaly as the former relates to forfeiture of goods and the latter to forfeiture of ships, aircraft and vehicles. Mr Speaker, I do hope the extension to the Courts' powers I have made detailed reference to will be seen as a furtherance of Gibraltar's commitment to get tough with persons who contravene the various provisions of this Ordinance. I can tell you, Sir, that the Police and Customs Department, our principle law enforcement agencies in Gibraltar, particularly, welcome the introduction of this Bill and I do hope that all Hon Members opposite also similarly welcome this Bill be presented to this House. Sir, my pleasure to commend the Bill to this House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, it is a pity that this Bill contains clause 2 otherwise we would be wholeheartedly welcoming the Bill and supporting it for various reasons not the least of which are the reasons which have been advanced by the Hon the Attorney-General. Therefore what we propose to do, Mr Speaker, is during the Second Reading of the Bill we are going to vote against it, unfortunately, because we have got very serious and fundamental objections to clause 2. In Committee we will be able to support all the other clauses which, indeed, I must stress that we really do welcome. Clause 2 makes provision for import duties which at the moment can either be abolished or decreased by regulation but they cannot be increased at the moment by regulation. The new clause makes provision for an increase in import duties without any further reference to the House by regulation and I remember, Mr Speaker, occasions in the past, particularly when the frontier opened that we exercised the powers already contained under the Imports and Exports Ordinance in order to lower import duties by regulation. But we think that it is a fundamental matter going to the whole root of parliamentary democracy that if import duties are going to be increased, the Government should bring the legislation here to the House, they should explain to the House why they are doing it, what the implications and the consequences of that would be by way of increased revenue and not that it should be done by regulation. It is yet another step in the pattern which has been developing for some time. The Government has taken similar powers to alter the rates of income tax and now there is this extension to do so in respect of import duties. I can see the point for the sake of flexibility that the Government should be able to abolish or to lower import duties by regulation because that can be important but increases in import duties have traditionally, and are still traditionally such as with the Chancellor's budget in the United Kingdom, they are still part and parcel of what is regarded elsewhere as the Annual Budget. That is not going to be the case here, the Government will be able to do it by regulation. No doubt we will be able to come to the House at some subsequent meeting, ask questions about it but by then we cannot influence the decision. So, unfortunately, because of that clause we are not able to support a measure of legislation that we would otherwise wholeheartedly welcome.

HON P C MONTEGRIFFO:

Mr Speaker, I have a similar view to the Leader of the Opposition in that respect and I do not really see why it should be necessary to have Government take that extra power. The flexibility implicit, in fact, in the previous provision was workable because you could make your regulation and then just table it before the House, that is the way it would work, the House would subsequently have to resolve the matter. I would certainly welcome all the other provisions of the Bill. I am surprised that the reference to section 9 has been left out completely in the explanatory memorandum and in the explanation that the Attorney-General has given. If memory serves me right, and I am just asking Mr Sanchez to have a look at this, that Schedule relates to the import and export of meat or meat products at least that is my recollection of a few days ago when I saw it and I just wonder how the repeal of that Schedule comes into the context of this Ordinance and why the explanatory memorandum has failed to refer to section 9 at all.

HON ATTORNEY-GENERAL:

If the Hon Member will give way, Mr Speaker, I can explain that. Schedule II, in fact, Mr Speaker, as it is at present contained in the Ordinance, relates to the fees which Government is entitled to collect on the licence authorised for exportation of duty free goods.

HON P C MONTEGRIFFO:

That makes sense, Sir, but I was puzzled by no explanatory note in relation to that item in the Bill. Thank you, Sir.

HON CHIEF MINISTER:

Mr Speaker, obviously the part of the Bill which the Government is most interested, on this side of the Government, is the one that the Opposition on both sides are not going to ie clause 2. We believe that there is a necessity to do this for a variety of reasons. Certainly if one is looking at a situation where Gibraltar wishes to retain its competitiveness, as has happened in the past after the frontier opened and there are representations from the trade that something should be reduced because the result is going to be an increase in the volume of goods that are sold because the price comes down, then the situation is that as it stands at the moment you reduce and if the volume does not materialise then you cannot go back to where you were before you reduced without having to come back and legislate. The fact that if you are having a system that is going to be responsive to changes in the market then the system in order to be responsive has to

be a system that can move in more than one direction. Obviously it is not the intention by this regulation to substitute for budgetary measures and this is not what it is there for. It is there to have a system that enables us to respond quickly to circumstances which in our view require a quick response and, for example, in the area in which we expect to be moving very quickly after the passing of this legislation is on the question of the wayleave and we would not want to have to come back to the House every time the wayleave has to be changed and go into a desertation of the effect of the wayleave on the turnover for exports of particular commodities. But it is an area where in monitoring the situation, as I told Members opposite in answer to a question from the Hon Mr Montegriffo some time ago, the Government was monitoring the situation as regards exports of duty free goods where there is a special rate charged. At the moment the rate can be reduced but it cannot be altered in any other way and we think it needs to be altered by increasing it and that will happen when the law comes into effect virtually immediately the regulations are published and it will be monitored and we will see what their effect will be.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, I am very grateful to all the Members opposite for their limited support to this Bill. In the short time I have been a Member of this House, Mr Speaker, I have had the privilege of presenting several Bill though this House and each and every one until today has received the total support of the Members opposite. I therefore feel rather like a certain English football team, Mr Speaker, which was on a winning streak for quite some time at the beginning of the season and then suddenly found that their luck had run out.

HON A J CANEPA:

The Newcastle United?

HON ATTORNEY-GENERAL:

Fortunately it is not the team I support I am referring to, Mr Speaker, but at least I claim a score draw for the results of this Bill on the Second Reading this afternoon. Mr Speaker, the regulations arising from this Bill have already been prepared in draft form and are being considered

at the present moment and it is intended to publish certain regulations in conjunction with the Bill in due course so that the same can come into force at the time the Bill comes into force. Subject to that, Mr Speaker, I do not think there is anything further I can usefully add.

HON P C MONTEGRIFFO:

If the Hon Member will give way.

HON ATTORNEY-GENERAL:

I have just about finished but I can say a couple of more words if the Hon Member wishes to intervene.

HON P C MONTEGRIFFO:

Mr Speaker, since the only thing that divides both sides of the House is the point as to what extent the House of Assembly has an opportunity to review rates and bearing in mind that it is a matter of principle, I am certainly not objecting to the Government wanting to have the power to increase rates quickly in order that Gibraltar can respond favourably to some particular demand. Therefore can the suggestion not be made that we go down the route that we have gone with the Financial Services Ordinance and other types of legislation, where the same flexibility is desirable for Gibraltar, whereby by reference, I believe, to section 28 of the Interpretation and General Clauses Ordinance where you have the opportunity to raise the matter formally under that section by tabling - I forget the precise term of the provisions because I am just speaking without having seen it recently - but I understand the provisions of that section state essentially, that within twenty-eight days or some limit of time, the rules are tabled here as a formality. In most cases it actually allows a framework for points to be raised but at the same time gives the Government the flexibility which they obviously feel, and which I would agree with and Members on this side might follow me in this respect, would give the Government the flexibility which is desirable. It would be a departure from the previous provision which is a little tighter, effectively the previous provision being that unless the House specifically resolves to accept the wayleave variation that it becomes inoperative and that that would be frankly unworkable perhaps given the type of situation we are now looking at, but let us have that framework which has been adopted in much similar legislations like the flexibility for the Financial Services Ordinance and we might all happily support it on that basis.

HON ATTORNEY-GENERAL:

Mr Speaker, I have heard what the Hon Member has said but it is not within my province to comment on the acceptability or otherwise of his proposals. I am sure the Hon Chief Minister has heard what the Hon Member opposite has said and it is for the Chief Minister, of course, to determine to what extent, if at all, the Hon Mr Montegriffo's proposals can be accommodated. Again, Mr Speaker, can I thank the Hon Members opposite for their limited support and I have nothing further I feel I can usefully add.

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 K W Harris  
The Hon P J Brooke

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 Dr R G Valarino  
The Hon P C Montegriffo

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

HON A J CANEPA:

We would agree, Mr Speaker, the only thing is if we are going to proceed immediately after the Second Reading of the Bill to go into Committee and if this Bill is going to be considered in Committee and the Chief Minister may not have time to consider the point which the Hon Mr Peter Montegriffo had made and if he were to agree that we should proceed along those lines which we have done previously

in the House, there may not be time to introduce an amendment whereas if the Imports and Exports Bill could be left to tomorrow then overnight it might be possible for the Attorney-General on instructions from the Chief Minister to bring the same sort of amendment that was brought in the Financial Services Bill. The same sort of amendment which was could wholeheartedly support and there will be no difficulty during the Third Reading of the Bill in voting in favour which we would like to do having regard to the very important points which the Attorney-General has made.

HON CHIEF MINISTER:

I am prepared to let the Committee Stage be taken tomorrow, Mr Speaker. In any case, the Members opposite can vote against it being taken today and ensure that it is taken tomorrow but I am only doing that so that we give proper consideration to the suggestion not because I am committing myself to accepting it, let us be clear.

MR SPEAKER:

The Committee Stage will not be taken today then.

THE BUILDING SOCIETIES (AMENDMENT) ORDINANCE, 1990

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 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, this Bill has been primarily devised to provide a simple defensive framework in which Building Societies are authorised in EEC Member States to operate in Gibraltar. There is a current degree of interest being shown by UK Building Societies in opening branches in Gibraltar. As Hon Members are, I think, already aware, the recent Order made under Section 14 of the Building Societies Act in the UK empowers UK Building Societies with commercial assets over £100m to make advances on the security of land in Gibraltar. This Order has therefore given the green light to the larger Building Societies to establish themselves in Gibraltar. Given that Government wishes these Societies to

be in a position to carry on business here to the same extent as they are allowed to in the UK, it has been necessary to consider if anything in the Building Societies Ordinance detracts from this. So, Mr Speaker, so far good news but now we have to come to the difficulty. Building Societies in the UK in addition to providing the traditional deposit accounts and mortgage facilities, are empowered to carry on a wide range of financial services. They therefore have more extensive powers than the present provisions of our Ordinance which limit the purpose for which the Societies may be established basically to the raising of funds and making advances to members upon security by way of mortgage. A major difficulty to the UK Building Societies registering in Gibraltar is the requirement that in order to be so registered nothing in their Rules must be considered to be incompatible with any of the provisions of our Ordinance. In other words, Mr Speaker, a Society incorporated outside Gibraltar seeking to establish itself here is clearly restricted in its sphere of operation generally to the matters permitted by our existing Ordinance. To overcome this the Bill now before the House provides the means for an EEC Building Society wishing to establish a place of business in Gibraltar, to be recognised as an authorised Building Society admitted to carry on whatever business it is permitted to engage in in the Member State in which it is authorised. Perhaps at this point, Mr Speaker, I should point out that through the former such a recognition, the Bill is in a way anticipating the EEC moves towards the Single Market liberalisation in accepting as valid for Gibraltar authorisations given in EEC Member States. In addition, Mr Speaker, the Bill provides for the removal of some out-of-date maxima expressed in the Ordinance and provides for machinery that will enable them to be fixed at appropriate levels to be reviewed and revised through Regulation from time to time. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, we on this side of the House generally welcome, without reservation, this Bill. We welcome it for the reasons that have already been put forward by the Hon the Financial and Development Secretary. It will provide increased competition in the field of lending and, particularly in the field of lending for mortgages for home purchasing in Gibraltar and it will bring with it the increased facilities which have been mentioned and which Building Societies already provide in UK. It will also, in a way, be an advantage in that the present situation where the majority of mortgages for home purchasing in Gibraltar seem to be centred rather than traditionally, as in UK, on



Building Societies, here it has been through the evolution of events and through the lack of Building Societies, the main lenders in this field appear to be the banks and this is not necessarily in the best interests of the home purchaser because, again, traditionally in UK the Building Societies have always offered money for this purpose at a lower rate than the banks have done. For this reason and for the fact that it will help and it will foster home ownership, we fully support the Bill. It is perhaps relevant at this stage to mention that the Government might like to consider ways and means of controlling or limiting the increases in lending rates offered by lenders in Gibraltar to avoid, for example, automatic increases or semi-automatic increases that we have had every time the UK bank rate has increased or possibly to bring the money lending rates more in line with their principal offices in UK rather than have the situation which we have tended to have where the mortgage lending rate has been slightly higher but the deposit rates have not necessarily been correspondingly higher. I would take this opportunity to suggest that the Government should look into this matter in order to find some way of controlling it. Mr Speaker, we will be supporting the Bill.

HON P C MONTEGRIFFO:

Mr Speaker, I have just one reservation on the Bill which, again, perhaps the Government can allay. I welcome fully the idea of EEC Building Societies establishing themselves here for the purposes of providing greater competition in the lending market but it seems to me, again and I stand to be corrected, that the Bill unfortunately is going to allow "outside lenders" establishing themselves here to do things that other Building Societies cannot do. I understand, the position as explained by the Financial and Development Secretary, that this Bill should be regarded as a transitional Bill which will anticipate a fuller document. But if what the Bill does, or I understood it to be, Sir, that the Financial and Development Secretary has indicated that there would be, well he would anticipate liberalisation generally which I assumed would invite changes to other Ordinances. My point is, Mr Speaker, that if as I understand the position a Gibraltar Building Society is limited to what it can do in deposit taking and lending on property and if now by this legislation it allows any EEC lender to be recognised in Gibraltar and to do whatever that Member State allows it to do then we are creating an unfair competitive environment for our own lenders. Because if, for example, a UK Building Society can do things other than take deposits, for example, issue unit trusts; go into other areas of financial services, it allows it effectively to make money and to bolster its own financial position and to diversify its own business in a way which will allow it, potentially, to bring better rates than, for arguments sake, the Gibraltar Building Society. Because the Gibraltar Building Society can only take deposits and not do anything else. As

I say, I am not sure to what extent the point can be answered satisfactorily. I raise it because if I assume by implication you have to specifically in the Bill say that whatever you are allowed to do in another Member State you will be allowed to do here because our law here would not allow you to do that, then you have really two levels of permission. One that affects Gibraltar lending societies and which strictly limits, by the terms of the existing Ordinance and one that affects firms and which are allowed potentially a wider sphere of activity. As I say, it is only a supplementary point that I am addressing because I would certainly not object to the Bill on that basis but if there is any uncertainty or ambiguity in that area then I would like perhaps to hear some explanation as to how that could be redressed. Thank you, Sir.

HON CHIEF MINISTER:

Mr Speaker, the Hon Member is right when he says that there will be different treatment of Building Societies incorporated in Gibraltar and Building Societies incorporated in other Member States. Where he is wrong is in thinking that we are doing anything now that we will not be required to do on the 1st January, 1993. Therefore all that we are doing is anticipating what is a Community requirement. Because we want to welcome Building Societies the law in the Community, the Second Banking Directive affecting Credit Institutions says we have to do something by the 31st December, 1992 and we are choosing to do it now instead of doing it then because it is in our interest to encourage the Building Societies to come here. In fact, what we could do is stop them coming in until 1993. What we cannot do either now or in 1993 is allow the Building Societies that we have in Gibraltar and who would not be allowed to register anywhere else in Europe on the capital ratios that they have, the umbrella of being able to operate on the basis that other Building Societies are going to be operating here. I would remind the Hon Member that as has been pointed out by the Financial and Development Secretary, Section 14 of the Building Societies Act which has been applied by the Building Societies Commission to Gibraltar discriminates between Societies in UK with £100m and Societies that have not got £100m who will not be allowed to lend on land in Gibraltar. Clearly, if we were to adopt the criteria that in order for a Building Society in Gibraltar to be able to do what a Building Society in UK can do, it has to have £100m. It goes without saying that the two and a half Building Societies that we have here who between them have not got more than £5m or £6m would not come anywhere near that criteria. So the reality of the matter is that if our locally registered Societies are going to survive at all they will have to survive on the basis that they have a much narrower range of things that they will be allowed to do and there is no way that we can maintain our reputation as a Financial Centre and allow a Building Society capitalised at £100,000 to provide overdrafts and banking services and all

the other things that very substantial credit institutions in UK do who, in fact, meet the minimum capital requirement of £5m ecus laid down in the Second Banking Directive.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. I would just like to thank Hon Members for their general support to this Bill. I think the Chief Minister has responded to the majority of the points made. I think one point that was not responded to was the question of the control of money lending rates. I know of no control of money lending rates that the Building Societies in the UK have but I stand to be corrected on that. Other than that I would just simply like to thank Hon Members for their support, Sir.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1989/90) (NO.2) ORDINANCE, 1990

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. In accordance with what I understand is to have been the custom of my predecessor, Mr Speaker, I will not make any speech on the general principles of the Bill but merely commend it to the House.

MR SPEAKER:

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

HON A J CANEPA:

No, Mr Speaker, we will raise any points at the Committee Stage.

MR SPEAKER:

I will now call on the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have nothing to say, Sir.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Contract and Tort (Amendment) Bill, 1990; the Sale of Goods (Amendment) Bill, 1990; the Pensions (Widows and Orphans) (Amendment) Bill, 1990; the Criminal Procedure (Amendment) Bill, 1990; the Pensions (Amendment) Bill, 1989; the Bankruptcy (Amendment) Bill, 1989; the Public Health (Amendment) Bill, 1990; the Merchant Shipping (Amendment) Bill, 1990; the Business Trades and Professions (Registration) (Amendment) Bill, 1990; the Social Security (Non-Contributory Benefits and Unemployment Insurance) (Amendment) Bill, 1990; the Imports and Exports (Amendment) Bill, 1990; the Building Societies (Amendment) Bill, 1990, and the Supplementary Appropriation (1989/90) (No.2) Bill, 1990.

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

THE CONTRACT AND TORT (AMENDMENT) BILL, 1990

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

Clause 2

HON M A FEETHAM:

Mr Chairman, I need to correct a printer's error. After Part XIV the letter "o" was left out of the word "CONTRACT".

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

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

THE SALE OF GOODS (AMENDMENT) BILL, 1990

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

Clause 2

HON LT-COL E M BRITTO:

Mr Chairman, I have to declare an obvious interest in this Bill. Mr Chairman, this point would have been more relevant to have been made in the general principles of the Bill but at that time I was not in possession of information relating to the UK Toy Safety Regulations 1989 of which I have a copy here and therefore I was unable to make the point at that juncture. I think there is an ambiguity in Clause 2 as it is envisaged in that it is not clear whether the 'CE' mark referred to in subsection (2) is required or not required to be carried by toys after any given date and the UK Regulation is much clearer in that it comes into effect on the 1st January, 1990, but it establishes quite clearly that toys held in stocks by shops and manufacturers and suppliers prior to the date of the implementation of the law do not have the requirement to carry this 'CE' mark and can be sold subsequently without the 'CE' mark being on them. But on the contrary any item received by the retailer or supplied by a manufacturer subsequent to the 1st January, 1990, by statutory obligation is required to carry the 'CE' mark. I am not aware whether the Directive which it is intended to publish in the Gazette will be as specific as that but I would have thought that either by amendment or by including it with the text of the Directive it would be in the interests of consumers as well as of retailers to be safeguarded by a clarification of the position of whether a toy has to carry or has not got to carry the mark at a certain date. As I say, I am not aware of what the Directive says but certainly the legislation as we are bringing it in does not make this clear whereas the UK legislation does. And if it helps in any way, I am quite prepared to make available to the Hon the Attorney-General the copies of the UK legislation that I have in my possession.

HON M A FEETHAM:

Mr Chairman, I would like to move an amendment to Clause 2, section 16A(1), in the first line the word "the" should be inserted immediately before the words "sale of goods".

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

HON A J CANEPA:

Mr Chairman, we support the amendment. The point that the Hon Mr Britto has made, I think, still requires to be clarified before we move on.

HON CHIEF MINISTER:

Mr Chairman, what this does is it brings into effect a Directive of the European Community relating to safety standards and it gives us the power to update that Directive by publication in the Gazette. At the same time just like we are able to update there is nothing to stop us introducing in the publication an element to take into account the point that the Hon Member has made but we certainly would not want it in the law because for reasons that we have explained, our own experience is that in the time that we have been in we suddenly find that something that was intended for one thing in the law is stopping you doing something else somewhere else without knowing it. We take the point that the Hon Member has raised and we will ask the Attorney-General's Chambers to see before we publish the actual thing in the Gazette whether it covers the point that has been made.

HON M A FEETHAM:

Mr Chairman, I wanted to clarify the point further. In fact, since the Bill was presented to the House there has been consultation with the Toy Traders Association and the Attorney-General's Chambers taking into account these sort of things and at the time when we made the Regulations the points which have been made will be taken care of.

HON A J CANEPA:

We are grateful for that, Mr Chairman, we vote in favour.

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

THE PENSIONS (WIDOWS AND ORPHANS) (AMENDMENT) BILL, 1990

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, can I in accordance with the notice I gave to you on the 13th February, amend Clause 1 of the Bill. The Government has decided since publication of the Bill, Mr Chairman, that the Bill is to be given retrospective effect to the 26th day of October, 1989 and therefore, Mr Chairman, I move that the side heading "Title" be amended to read "Title and Commencement". That the figure "1" is followed by a "(1)" be inserted before the words "This Ordinance" and that a new subsection be inserted as follows: "(2) This Ordinance shall be deemed to have come into effect on the 26th day of October, 1989".

HON P C MONTEGRIFFO:

Mr Chairman, before I comment further, could I invite the Attorney-General or any other Member of the Government to perhaps elaborate further why we are being asked to give retrospective effect to the Bill.

HON CHIEF MINISTER:

Mr Chairman, the position is that representations were made by Staff Associations that there were people who had, in fact, left the Government Service since the date that the Bill was published and the date that the Bill was passed which is why the 26th October date comes from. So, effectively, it will mean that people who retired from that day on whereas normally people who have retired would not be able to obtain a refund of contributions because, as I explained, I think, in the general principles of the Bill, the whole essence of getting a refund is that you have to put a time limit on it otherwise you have a situation where you insure yourself against something happening, if it happens you collect and if it does not happen you collect a refund and then you destroy the principle of insurance which is that effectively the survivors pay for those who do not survive. But we accepted the argument, I think there are a couple of individuals caught in that situation and therefore we have agreed to make the date effective from then.

HON P C MONTEGRIFFO:

I am grateful for that. The date the 26th of October, I believe it is, is not relevant in any other way at all, it just happens to coincide with their requirements so to speak.

HON CHIEF MINISTER:

No, I believe that it is the date that we published the Bill and there are people who left the service after we published the Bill but before we passed it which is now. So if we

introduce the Bill with effect from now it would mean that people who had left the service previously would not be able to claim the refund because they were no longer in the Government service. What we have done is effectively that the period within which people are claiming refunds is from the 26th October to the 31st March. There are people who claimed after that date and who having claimed it did not stay in the Government after they had claimed it and therefore as the law stood we were advised that they would not be able to collect the refund unless we actually specified that if their claim had come in after the 26th October, which is when it was made public, then even if they had ceased to be employed by the Government their claim for a refund should still be dealt with.

HON P C MONTEGRIFFO:

Mr Chairman, I do not want to labour the point, I am grateful for that explanation. But the Bill was published on the 11th January, 1990, and not on the 26th October. Was the 26th October a date perhaps when it was made public to the Staff Side, I am quite confused, Sir.

HON ATTORNEY-GENERAL:

Will the Hon Member give way, unless he has completely finished. What, in fact, happened, Mr Chairman, was that this Bill effects certain additions or, if you like, amendments to the Bill which went through this House at the end of last year which began the winding up of the Widows and Orphans Pension Scheme. That, I think, is what the Chief Minister was referring to.

HON P C MONTEGRIFFO:

I am obliged, Sir.

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

Clause 2

HON K B ANTHONY:

Mr Chairman, in Clause 2(a) I think it should read "except" and not "expect", is that correct?

HON ATTORNEY-GENERAL:

Yes, Mr Chairman, that is absolutely right. The Hon Mr Anthony has better eyes than I do. He is absolutely right and I am most grateful to him. It should be "except a contributor who has ceased to be a public officer" and not "expect". Perhaps that amendment could be considered, Sir.

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, 1990

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, in relation to Clause 2 of this Bill and in accordance with the notice I gave on the 15th January, 1990, I move the repealing and replacing of section 226 of the Ordinance. I move, firstly, the deletion of the word "arrestable" preceding the word "offence" and, secondly, the deletion of the word "before" which immediately follows the said word "offence" and the substitution of the words "triable at".

HON M K FEATHERSTONE:

Sir, does the Attorney-General think that that reads as proper English it will now read "has been charged with an offence triable at the Supreme Court".

HON ATTORNEY-GENERAL:

Yes, that is perfectly proper English, Mr Chairman, as far as I am concerned, "triable at the Supreme Court".

HON M K FEATHERSTONE:

Well, it confuses me, Sir.

HON ATTORNEY-GENERAL:

Mr Chairman, let me explain, I am sure the Hon Mr Montegriffo, as a fellow lawyer, knows exactly what I am talking about. There are three categories of criminal offences, Mr Chairman, there are summary offences which can only be tried or which are triable at only the Magistrates' Court; there are offences of a certain category which can be tried at or triable at either the Magistrates' Court or the Supreme Court depending on the wish of the parties and the election of the defendant, and thirdly there are the more serious category of offences such as rape, murder, manslaughter, blackmail and the like, which can be tried at or triable at only the Supreme Court.

HON M K FEATHERSTONE:

Is not the word "at" missing, "triable at at the Supreme Court".

HON ATTORNEY-GENERAL:

It is in, is it not? That is the amendment I am moving, Mr Chairman, the substitution of the words "triable at". That is what I have said. That is what I have in front of me and if I did not read that then it is my mistake but that is what I seek to substitute, Mr Chairman, the words "triable at". But I did say "triable at" when I moved the amendment originally, Mr Chairman.

HON M K FEATHERSTONE:

Now I have it, Mr Chairman.

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

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, in Clause 3 which related to the proposed section 227(1) I move the deletion of the words "and to section 68B of the Magistrates' Court Ordinance", the Magistrates' Court (Amendment) Bill, Mr Chairman, having been withdrawn by me at the last House. Also in Clause 3, Mr Chairman, in respect of the proposed section 227(2) by firstly inserting immediately after the words "compensation under subsection (1) shall" the words "in the case of the Supreme Court" and, secondly, by inserting immediately after the words "considers appropriate" the words "but in the case of the Magistrates' Court shall not exceed £2000".

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

Clauses 4 and 5 were agreed to and stood part of the Bill.

Clause 6

HON ATTORNEY-GENERAL:

Mr Chairman, in Clause 6 dealing with the proposed new section 232A I move to insert immediately after the expression "section 226" a comma, and the figure "227".

Mr Speaker then put the question which was resolved in the affirmative and Clause 6, as amended, was agreed to and stood part of the Bill.

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

THE PENSIONS (AMENDMENT) BILL, 1990

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, I gave notice to you initially on the 9th January of certain amendments that the Government then wished to move to this Bill. That notice is now replaced, Mr Chairman, by the notice I gave dated the 12th February. That notice effects a large number of amendments to the Bill and in addition the Hon Colonel Britto has also given notice, dated today, that there are certain amendments which he intends to move to the Bill. Mr Chairman, I seek your guidance at this stage whether you wish to go clause by clause or whether you feel there is any way we can shorten the procedure by dealing with the respective amendments being moved on a collective basis.

HON A J CANEPA:

Mr Chairman, some of the amendments of which the Hon the Attorney-General gave notice on the 12th February are major amendments because they amend sections of the principal Ordinance which were not previously the subject of the previous Bill, for instance, section 7 which I think applies to officers who are retired in the public interest. It is now proposed to amend that section and I think, Mr Chairman, that the correct procedure, if I may say so with your indulgence, would be that we take each clause one by one and when we come to the amendments which the Attorney-General has given notice of on the 12th February, that we should take them individually and he should explain what the import of those amendments are so that we can understand really what is being done. I have had a look at them but we have not had due to lack of time sufficient time to be absolutely certain that an Ordinance with which I am reasonably familiar, namely the Pensions Ordinance, that I understand what is being done and how it is being amended.

MR SPEAKER:

I think that we should follow the normal practice which is to go clause by clause.

HON ATTORNEY-GENERAL:

Mr Speaker, personally I am perfectly happy to proceed as the Hon Leader of the Opposition has suggested. I do not think it falls upon me to explain matters of policy in Committee Stage, that is for the Chief Minister or anyone else whom he nominates from the elected Members on this side of the House to explain. Mr Chairman, I will be perfectly happy to accommodate the Hon Leader of the Opposition, of course; by doing my best to clarify any legal points which may arise in the Committee Stage.

MR SPEAKER:

No doubt other Members of the Government will come up and explain the clauses if the Leader of the Opposition wishes any explanation, I am sure.

HON ATTORNEY-GENERAL:

Mr Chairman, in that case, in respect of Clause 1, I move that that Clause be amended by the addition to the "Title" of the words "and Commencement"; by the insertion of the figure "(1)" immediately before the words "This Ordinance", and by the insertion of a new subclause in the terms of paragraph 1 of my memorandum to you of the 12th February reading: "(2) This Ordinance shall come into operation on such day as the Governor may by notice in the Gazette appoint and different days may be so appointed for different purposes".

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, in relation to Clause 2, I move that that is renumbered as Clause 4; that the words "Pensions Ordinance (hereinafter called 'the principal Ordinance')" are omitted from that Clause and are replaced by the words "the principal Ordinance"; that the word "the" is inserted inside the second set of quotation marks and before the word "Governor"; and that the following words are inserted after the word "Governor", namely, "and in subsection (1)(a)(iv) by omitting the words 'or the Secretary of State'". That, Mr Chairman, is in accordance with Clause 2 of my notice of the 12th February.

Mr Speaker then put the question which was resolved in the affirmative and Clause 2, as amended, (renumbered as Clause 4) was agreed to and stood part of the Bill.

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, in respect of Clause 3, as per paragraph 3 of my notice, I move that the present Clause 3 is omitted and replaced by the following new Clauses, the first of which is headed as "Amendment to Section 2" is numbered 2 and reads as follows: "The Pensions Ordinance (hereinafter called "the principal Ordinance") is amended in section 2 by omitting in paragraph (d) of the definition "public service" the words "Secretary of State, or the Governor after consultation with the Secretary of State", and substituting therefor the word



"Governor". As a further amendment to Clause 3, Mr Chairman, I move turning to page 2 of my notice, that we have a new Clause 3 headed "Amendment to Section 3" and reading: "The principal Ordinance is further amended by omitting in subsection (2) of section 3 the first and second commas and the words "with the sanction of the Secretary of State".

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

#### New Clauses 5 to 10

HON ATTORNEY-GENERAL:

I have already moved, Mr Chairman, that Clause 2 of the existing Bill should be numbered as Clause 4 and I therefore move that we insert a Clause 5 to the Bill with the heading "Amendment to Section 7" and reading as follows: "The principal Ordinance is further amended by omitting in section 7 the words "and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Ordinance".

HON A J CANEPA:

Mr Chairman, am I correct in thinking that the section 7 and can I have confirmation from the Attorney-General that the section 7 of the principal Ordinance that is being amended is that which provides for the payment of a pension, gratuity or other allowance to be payable to an officer whose employment with the Government is terminated in the public interest. If that is the case could I have, perhaps if not from the Attorney-General if he thinks that it is a matter of policy though I always understood that the Pensions Ordinance was not a defined domestic matter and that therefore if anybody had to give an explanation here in the House on behalf of Government as an employer, it was the Attorney-General who used to but I want an explanation from somebody as to why it is considered that in those circumstances a pension and gratuity should no longer be payable to an officer whose employment is terminated in the public interest.

HON ATTORNEY-GENERAL:

Mr Chairman, can I deal firstly with the last comment by the Hon Leader of the Opposition. When I agreed and became Attorney-General I stressed to everyone that I am and would remain a lawyer, not a politician, I do not and will not interfere in any way in matters of policy. I can confirm, however, as the Hon Member has said, that section 7 of the Pensions Ordinance does indeed relate to retirement on the grounds of public interest.

HON A J CANEPA:

Right, I am sure therefore, Mr Chairman, that I can now invite the Chief Minister on behalf of the Government to give us an explanation as to why. We may very well agree that this is desirable and proceed in this manner.

HON CHIEF MINISTER:

Mr Chairman, I think what this does are two things. There are a number of amendments throughout which remove the references to the Secretary of State and that, in fact, we had already decided to do in the original Ordinance, that is when we brought the Bill to the House for First and Second Readings, but in between then and now what we have done is, effectively, go through the rest of it and we have realised that there is no consistency if we keep the Secretary of State in some areas and not in others so we are removing it from all of them. The amendment that we are doing to section 7 is not to prevent us from giving a pension to somebody retired in the public interest but to broaden the category of people to whom we can. So it is not a restrictive amendment, it is an amendment that makes it easier to do so because at the moment you can only do it provided a pension or gratuity or allowance cannot otherwise be granted under another provision. We felt that there might be a situation where somebody could go under this provision and get £x or under another provision and get £y and the individual might argue: "Well, £x is more than £y, why cannot I use this provision". As the law now stands if he gets a minimal amount under another provision he loses the right to get a higher amount under section 7 and we are removing that restriction.

HON A J CANEPA:

That is perfectly understood.

HON ATTORNEY-GENERAL:

Mr Chairman, I propose that a new Clause 6 be inserted to amend section 8 and that the principal Ordinance is further amended by omitting in paragraph (b) of subsection (1) of section 8 the words "with the approval of the Secretary of State" together with the surrounding commas. May I further propose, Mr Chairman, that a new Clause 7 be inserted to amend section 9 of the Ordinance by omitting in subsection (3) of that section the words "after consultation with the Secretary of State in order that it may be determined". Mr Chairman, I further propose that a new Clause 8 be inserted to amend section 11 of the Ordinance. Firstly, that paragraph (a) of subsection (1) of section 11 be omitted and replaced by the following new paragraph: "(a) unless or until the person in receipt of the pension has attained his normal age of retirement, he may, if fit for service, be called upon by the Governor to accept, in lieu of his pension, office in public service under the Government or in

other public service;". And as a second amendment to section 11, Mr Chairman, may I propose that paragraph (b) of subsection (1) of section 11 be amended by the omission of the words "the age of fifty years" and the substitution therefor of the words "his normal age of retirement".

HON A J CANEPA:

Could the Attorney-General at this stage explain what this amendment will achieve?

HON P C MONTEGRIFFO:

Mr Chairman, could I interrupt at this stage although I do not want to confuse proceedings further. Mr Chairman, the amendment to section 8 according to the notice given by the Attorney-General is, in fact, the nub of the Ordinance and effectively replaces most of what the old section 3 was doing. It is an amendment to section 11 but it is number 8 in the principal Ordinance. The subsection that that is replacing does not contain this similar wording but has the words "not less in value at the end of office in public service" so that the position if this subsection was passed is that if a person in receipt of an early pension was fit enough to be offered employment in the public sector and if he did not take up that employment he would lose that early pension. The previous position, Mr Chairman, in the principal Ordinance said the same except that the offer of new employment had to be effectively equal in value and not less in value. That is, I suppose, a fairly nebulous term 'not less in value' but it would definitely encompass value of remuneration and, I think, value of responsibility. The original section 3 of the Ordinance that we are now considering did in fact contain words which were of a similar effect because, Mr Chairman, you will recall that that relevant part of section 3 said that if a person in these circumstances was offered employment which was similar in rank to the one he had last held before retirement that if he then refused to take up that new employment that the early pension would not be paid. So we had a situation, Mr Chairman, where the original principal Ordinance said 'if you retire early because you are ill but then you get better, we offer you a job as long as it is the same job of a similar value you have got to take it or else you lose the pension'. The first Bill, if I can talk of it that way, that came to the House said 'forget about that but you will also lose your pension if we offer you a job' - we lose the words 'of the same value' - 'but it has got to be a job that is not inferior in status and responsibility and it is obviously on a type of par with the one you originally had before leaving due to ill health'. Mr Chairman, you will recall the point I made which I think the Government took on board but I wanted to make sure that self employed people would also be subject to the possibility of being caught in the same way. We now go to what the Learned Attorney-General is proposing which appears, subject to any explanation which the Government may give, to actually take the position even

back beyond what the original principal Ordinance provided, ie it seems to be a dilution of a right which was originally in the principal Ordinance and which was also, to some extent, going to be encompassed in the philosophy in the Bill that first came to this House. What we all agreed in this House, I think, was that if a man became fit after having left his job because originally he had been ill then it was logical that the Government should say: "Right, I offer you a job back of a similar type that you had. If you do not take it up why should the taxpayer go on paying you when you have entered into other employment in the private sector or you have become self employed elsewhere". Am I correct in saying, Mr Chairman, that the amendment as it now stands really says that as long as the Government makes an offer of any job in the public sector, if that job is not accepted by the individual the individual loses that early pension? If that is correct, Mr Chairman, would that not be undesirable from the point of view that one could be, for example, a Head of Department in the Civil Service, one could suffer some illness to make the discharge of those functions impossible but one could still be able to be asked, for example, to be a Porter in the public sector. But it would be wrong, would it not, for a man who had achieved a certain position, after a career in whatever aspect, to be told that because he has recovered to the extent that it is possible to him to act as a Porter or as a Messenger and I am not decrying that post at all but that there are different levels of capability. If the effect of this amendment is to say: "We offer you the job of a Clerical Officer because you can, in fact, fill in a ledger but you cannot take decisions in the level of a Head of Department, and if you do not accept that then your pension will not be payable", if that is what, in fact, is being done that would appear to be undesirable and I cannot imagine that that would be the Government's intention. Could perhaps the Government clarify that aspect? I think it would be important and it would certainly change my attitude to the Bill. I liked the sense of it originally, I thought it was right that the people of Gibraltar should not pay somebody an early pension if he was in employment in a job of similar nature and of a similar standing but if he is offered a job which is at a lower level than that would not seem really to be the right sort of situation where an early pension should be done away with.

HON CHIEF MINISTER:

Mr Chairman, we in fact took a second and very hard look at this in the light of the arguments put by Members opposite when we brought the Bill to the House for First and Second Readings. What we are doing now reflects the validity of those arguments that were put here which were, effectively, that the way the original amendment had been prepared was a nonsense. If we have a situation where it says, as it did originally, that the person that is being retired has to be

offered employment in a pensionable office similar in rank and duties to those of the last office which he held before then, effectively, he must be fit to do what he was doing originally. If he is fit to do anything else he cannot be offered alternative employment. I know from the years that I have been dealing with industrial workers that quite often industrial workers do not want to be retired and, in fact, it was the Transport and General Workers Union who made representations to the AACR administration saying that before people are medically retired they ought to be offered alternative employment. But we were then talking about industrial workers. You might get somebody, for example, that has heart trouble and he is a driver and it is decided that he cannot drive but that does not mean that he cannot work. Since industrials tend to get relatively low pensions even if he leaves the Government he has no choice but to get another job because he cannot live on the pension that he gets from the Government. We all know that. That is one end of the scale and I can tell the House that at the other end there are a number of current cases seeking medical retirement and one happens to be a Police Constable who has gone to UK after ten years and three weeks of service and his doctor has told us, from the UK, that the man is suffering from depression because of his dislike for Gibraltar. We have been asked to please retire him on medical grounds and give him twenty years because he dislikes Gibraltar and he is depressed. If we went ahead with the original amendment we would then have to find him alternative employment in a pensionable office similar in rank and duties and which presumably must be giving him a job as a Police Constable in England where he would not be depressed since it is the place that makes him depressed and not the Police Force. In fact, what we have done is look at the principal Ordinance again and there is no doubt that the Pensions Ordinance is a very antiquated piece of legislation and that when there have been changes to it over the years we have been left with things which say one thing in one area but which is contradicted by something in another area. We however found out that we did not need to introduce new legislation in order to offer re-employment because the possibility of offering re-employment already existed in the Ordinance under section 11. So rather than go ahead with what was intended and which was probably what was being prepared under the former administration because we simply brought to the House something that had been in a very long gestation period and it is only really when we started debating it here that we recognised the inconsistency of saying 'if somebody is going to be retired from a particular office at a particular rank then he can only be offered the same office at the same rank'. The actual section 11 that we are amending provides that he should be offered employment not less in value - although that is not defined - and provided that the circumstances of the climate are ok. I do not know whether the particular Officer in question who wants to retire is not because he objects to the climate in Gibraltar. I would imagine that that is not what he dislikes

about Gibraltar. But since this was intended to provide for people who were in the Colonial Civil Service because that is where the origin of this Ordinance originates from, effectively what you are talking about is that if somebody leaves the Civil Service because he is unfit to be working in India then you can send him somewhere else to do something similar provided that the climate is compatible with the illness which lead to his retirement. So this section as it stands today is clearly designed to allow the Colonial Office to remove Colonial Civil Servants from one Colony and re-deploy them to another Colony as opposed to retiring them on medical grounds. What we have done is, since that is a dead letter anyway, is propose an amendment to that which we think is consistent with what medical retirement is all about because at the end of the day when one looks at people who are sent to a Medical Board there are, in fact, three options put down. One is, is the person fit to return to the job that they were doing; secondly, is the person unfit to do that particular job but fit to do any other job, which means that if he is he has not got a case for retirement; or thirdly, is the person unfit for the public service and you are retired from the public service and not from the particular job you are doing in the public service. So there is an inconsistency which says 'if you are retired from the public service you can only be re-employed in the public service in the particular job that you were doing before you were retired'. However, if you are not retired from the public service, which we have already got power to do, we do not need to change the law. If you had a situation where the particular case that I am bringing to the notice of the House and which happens to be the latest, and perhaps one of the worst examples that I certainly have come across, if that particular case were to be looked at by a Medical Board and the Medical Board came to the conclusion that the depression was not really Gibraltar but being in the Police Force then the Medical Board could recommend that the person should be, in fact, re-employed in another job in the public service rather than retired from the public service because he would have been unfit to do the job of a Constable but not unfit to be in the public service and that we can do already without amending the Ordinance. What we cannot do is do it to somebody that leaves and then we want to bring back and therefore the view of the Government, that is a matter of policy, is that having looked at what we were going to do and having taken on board the arguments that were put at the Second Reading of the Bill we realised that, in fact, had we gone ahead with the amendments that we brought to the House originally we would have been able to do nothing at all that we cannot do already because the qualifications put on being able to say 'no' to somebody on medical retirement or, in fact, to withdraw the medical retirement if they recovered their health miraculously, were such that it would have been easily challenged and effectively a dead letter. We then looked back at the Ordinance and we found the provisions that exist already in the Ordinance and with the amendment that we are introducing

what we are doing is giving us an opportunity to do to somebody that leaves the Service what can already be done to somebody before he leaves the Service. Whether the person agrees or does not agree or can or cannot do the job is something that will be taken up by the individual concerned. I think the most important thing, frankly, about the law that we are seeking to amend and the measures we are seeking to put out is that people who think that all they have to do is wait ten years and one week and then they can happily collect a lot of public money, in some cases higher than the minimum wage and then immediately go and get a second job and start working towards a second pension. Well, they are not going to get away with it anymore.

HON P C MONTEGRIFFO:

Mr Chairman, I am grateful for that information but I am not sure that the Chief Minister has fully addressed the point of the omission of the words 'not less in value'. I agree, in principle, with a lot of what the Chief Minister has said and the desirability of dissuading people from abusing a system in the terms in which he has described. But is it not reasonable, and maybe he does not feel it is, maybe we just take a different view on this, is it not reasonable that if in a legitimate situation you retire on medical grounds because you are not able to undertake the job of Financial and Development Secretary, for arguments sake, a demanding and stressful job for whatever reason, a medical condition, but you would be able to undertake the job of a Clerical Officer because less experience would be required and a different level of expertise would be required, would it be right - and as I understand it this law would allow the Government so to do - to offer the former Financial and Development Secretary a job in the public sector at that level and if he refused to take it, once he had been declared competent for that job, that he would then lose a pension at a level which he had worked for for X years previously whilst in that different level of responsibility. That seems to me unfair.....

HON CHIEF MINISTER:

Does he want the answer?

HON P C MONTEGRIFFO:

Yes, but could I make just one more point which perhaps the Chief Minister could also answer.

HON CHIEF MINISTER:

Before the Hon Member decides it is unfair!

HON P C MONTEGRIFFO:

That is one point and the other point which perhaps the Chief Minister could also address is this. My understanding is that the other part of the original section 3 because there were two parts really. The first one, that if you give up employment because you are ill and you just lounge around in your house and then somebody gets to know that you are fit and the Government offers you a job, if you do not come back then you stop getting your pension, fair enough. That is more or less encompassed in the new one. But the other situation was where you retire from your job, you then take up employment somewhere else, you are seen to take up employment somewhere else and even though the Government may not say 'I offer you employment', the mere fact that you have taken up employment somewhere else at a level which you could, as the Government, objectively assess is comparable in responsibility, that would be enough for the Government to say: "Fullstop, we are not paying you any more pension". It would appear to me here and I think that would be a legitimate view to take as well, it would appear to me here, Mr Chairman, that what is happening is that in the case of a person who actually goes out and does I think the bigger crime, so to speak, of retiring on medical grounds, then recovering and actually going to work in the private sector, that unless the Government actually had a job to offer him - and I assume that in most situations the Government would have a job to offer the man - in the hypothetical situation that we have a shrinking public sector after all, where the Government actually cannot offer him anything, the provision of part of the old section 3 which would allow the Government to say: "You seem to have entered employment with another person and that for me is enough for us to form the view that you should not be in receipt of your pension". I think that should be covered as well because it would be unfair to have a different situation depending on whether the man went out to work in the private sector or just stayed at home. This all now depends on the Government being able to offer alternative employment as opposed to a situation where somebody just takes up employment in the private sector and the Government cannot, in fact, make an alternative offer of employment.

HON CHIEF MINISTER:

The Hon Member is right. We are removing in the new provision the penalty which he has, in fact, mentioned that was in the original provision and we think it is fairer to do it. We do not agree we are being more unfair in the first bit and less unfair in the second and I will explain why. I stress that when people are retired now they are retired from the public service not from a particular job. That is, there is an inconsistency in the law. If the Hon Member takes the trouble to check he will find that people who are retired from the public service receive a letter that says:

"You are retired from the public service" and not "You are retired from the job of Financial and Development Secretary". If you go to a doctor and the doctor decides that working with me is so stressful that you need medical retirement then the doctor may decide that the answer is not to retire you from the public service but to distance you from me in which case his recommendation is.....

HON A J CANEPA:

Does that apply to other Members on this side?

HON CHIEF MINISTER:

I do not know, we would have to look at the provisions in the House of Assembly Pensions Scheme, Mr Chairman. As I was saying, Mr Chairman, we would be told: "We are not retiring the person from the public service but we are offering him alternative employment". The point that I am making is that we can do that already.

HON P C MONTEGRIFFO:

Yes, but on the terms clearly that it should - and I have mentioned it - that the original section 11, I think it is, says that you can offer employment but it shall be of the same value and the words "not less in value" have been excluded from the new amendment. So what you are allowing yourself to do, or at least that would appear to be the case, that you are taking out that safety net of "not less in value".

HON CHIEF MINISTER:

No, Mr Chairman, the Hon Member is wrong. Because what I am saying that we can do is not being done under section 11.

HON P C MONTEGRIFFO:

That is what you are repealing.

HON CHIEF MINISTER:

No, what we are doing is amending section 11 to bring it into line with the provisions that are elsewhere in the Ordinance and which allows us not to retire somebody. Section 11 is not about retiring somebody. Section 11 is about somebody who is already retired, that is the distinction. If a Civil Servant goes.....

HON A J CANEPA:

They are already pensioners.

HON CHIEF MINISTER:

That is right, they are already pensioners. So the one that we are amending is the one for people who have already gone and who are already pensioners. What I am saying we can already do and which is what the Hon Member thinks is unfair. We do not have to amend the law to do that, that we can do anyway.

HON A J CANEPA:

In the old days there were fears within the Civil Service in the days when it was being run along strictly Colonial lines, there were fears voiced - I am talking of decades past - that people who were already pensioners might be required to come back and work. That is what this applies.

HON CHIEF MINISTER:

So therefore we are not talking about saying "we are amending section 11 to enable us to refuse medical retirement", that we can do anyway. What we are saying is "we are amending section 11 so that instead of getting the man that may have another job in the private sector and sending him to another Colony where the climate may not be good for him, we will bring him back to the Government Secretariat where the climate is alright".

HON P C MONTEGRIFFO:

Then the policy of the Government is that as they have indicated it has changed its mind, if not its mind, then they were going to do something which you did not have to do because you could do it already.

HON CHIEF MINISTER:

Well, it is not that we changed our minds.

HON P C MONTEGRIFFO:

But you have realised that you had the power anyway.

HON CHIEF MINISTER:

We realised that we had the power anyway because, in fact, when we brought the Bill to the House the Members opposite brought up certain arguments and surely this is what they are always complaining about when they say that they want us to come to the House with things and take into account the arguments that they put. So we went back and looked at those arguments and as a result after reading a transcript of those arguments, which I have here, we went back and looked at the law, in the light of those arguments, and we found that they had made a number of very important and practical points. Some of the things that we were seeking to do were

in conflict with other bits of the Ordinance, or were superfluous, and in the light of that we have now come back and are not proceeding with the original proposals but with the new proposals. These achieve the same objective, that has not changed, in a more efficient way and in a way which does not create a greater degree of conflict between one section of the Ordinance and another. So what we are doing, effectively, is producing more intelligible legislation. But the objective has not changed and therefore the object of the Bill which we explained in the general principles, Mr Chairman, and which I have repeated today are still the same object. It is just that as a result of the contribution of Members opposite we have gone back and reconsidered the entire thing and come back, we believe, with a more efficient method and we are grateful to Members opposite for having pointed out the inconsistencies in the original Bill.

HON P C MONTEGRIFFO:

Mr Chairman, the Chief Minister has not addressed the point of whether it will still apply even for somebody who is already a pensioner. Is it the case if somebody is already a pensioner?

HON CHIEF MINISTER:

Of course it applies to somebody who is already a pensioner, that is precisely what I am telling the Hon Member.

HON P C MONTEGRIFFO:

But the amendment as it is being proposed excludes those words.

HON CHIEF MINISTER:

Mr Chairman, I will go over the argument, I think, for the last time and I think if the Hon Member does not understand it this time I will not explain it again because this is the third time round. Somebody claims to be too ill to continue working, as the law stands now without this Bill and without any amendments. He is then sent to a Medical Board and the Medical Board may retire him or may not retire him. The Medical Board has the option of saying: "This person is unfit to be a Policeman but he is not unfit for the public service". That is something that exists already.

HON A J CANEPA:

At the same salary.

HON CHIEF MINISTER:

But that is a different issue because the salary can be retained personal to holder on the basis that there are

agreements that says you cannot reduce somebody's salary. That is not the issue about whether you retire or you do not. At the moment when the person goes out.....

HON P C MONTEGRIFFO:

That is the part which is of concern and which I am addressing, Mr Chairman.

HON CHIEF MINISTER:

But the concern that the Hon Member is expressing is that on the one hand we are removing the fact that there is a reference to value for people that we are saying come back and yet he is saying that we should, in fact, proceed as originally intended and that if somebody leaves the Government service and gets a job as a Clerical Officer in the private sector we should, in fact, be able to say to him: "I will remove your pension if you carry on working as a Clerical Officer".....

HON P C MONTEGRIFFO:

No, that is what the Bill said, I am sorry, Mr Chairman. The original Bill said that equivalent employment had to be similar in status. It is your Bill and not mine, let us see where the fault lies.

HON CHIEF MINISTER:

I accept that it is our Bill and not his, Mr Chairman, I think if it was his none of us would get a chance to speak because being mine I can hardly get a word in edgeways.

HON P C MONTEGRIFFO:

I actually thought it was sponsored by the Hon Minister opposite who should defend his own Bills. Yet Mr Mor has not defended the Bill at all, Mr Chairman.

HON CHIEF MINISTER:

It has nothing to do with Mr Mor. We have just removed the powers of the Secretary of State and transferred them to me and not to Mr Mor, Mr Chairman. He ought to know that. Pensions is not, in fact, a matter for the Minister for Labour. This concerns the pensions of public servants and not pensions of the workforce generally. The Hon Member should know the distinction. The Hon Member said in his contribution that there were two things. The one about the value, which I answered, and the second part which was that we were no longer proceeding with the original provision which he considered legitimate and which we were no longer doing. I explained that we are no longer proceeding with it because by the amendment to section 11 we have got what we think is a fairer alternative to the original provision.



Because if somebody leaves the public service because he is considered unfit for work and then recovers we can offer him re-employment in the Government. But if he does not come to us for re-employment and he recovers and he is working in the private sector then under the original provision all that we could do was remove his pension whereas under the existing provision we can in fact offer him re-employment. The Hon Member seems to be saying if somebody leaves the Government then you should not be able to offer him re-employment unless you offer him his old job back. However, if you are not in a position to offer him his old job back and he may be unfit to do that particular job, if he gets a different job in the private sector then I agree that you should go ahead and do what you originally intended. Yes, the Hon Member is on record, as having said that he agreed with the original provision. The original provision was not to offer him a job but to take his pension away unless he stopped working.

HON P C MONTEGRIFFO:

He has the choice to leave and then be offered a job if the Government wants but that is his choice, Mr Chairman.

HON CHIEF MINISTER:

But this is precisely what I am trying to explain to him, Mr Chairman, that the option that we are giving now is a better option than the one that we had thought of giving him before where on the one hand either we had to give him his old job back or no job at all, either in the public or the private sector. So if the situation was that somebody was in the Government in a job of responsibility and because of the pressure of the work he could not carry it out then the situation, as the law now stands, is that we can offer him alternative employment and we can give him a preserved wage or we can let him go.

HON A J CANEPA:

Could the Hon Chief Minister elaborate that question of the preserved wage?

HON CHIEF MINISTER:

Yes, the position at the moment is that if somebody is in the public sector and goes, for example, for medical retirement, the example that I gave before of the Driver, if the Driver cannot be offered a job as a Driver then he is offered alternative industrial employment and there are agreements which protect his rate of pay and, in fact, he knows that, Mr Chairman, because we have had that problem before.

HON A J CANEPA:

Yes, Mr Chairman, I know of a Police Constable who has been retired and has been employed in an industrial capacity and has carried his salary but that can also sometimes raise problems.

HON CHIEF MINISTER:

Of course it can raise problems but it is not because the Pensions Ordinance says so. It is because there are other problems about the pay and how it affects other workers. What I am saying is suppose that officer goes and then takes a job as a clerk in a private sector firm, at the moment although he has been retired as being unfit for work we cannot bring him back even though he is manifestly fit for work. Under the provisions that we intended to include originally we could either bring him back to his old job which he might be unfit for or we could let him stay in the private firm but then we had the power to stop his pension. Under the provision we are introducing now we do not have the power to stop his pension because he is working in a private firm but we have got the power to offer him an equivalent job in the Government which is less than the one that he had in the Government before but is as good as the one he had in the private sector. Therefore we think these provisions to section 11 are more consistent and take care of both of the elements in the original Bill.

HON P C MONTEGRIFFO:

Mr Chairman, I raised the problem of what is the Chief Minister's attitude to the word "equivalent" position.

HON CHIEF MINISTER:

I am not explaining it a fourth time.

HON LT-COL E M BRITTO:

Mr Chairman, I had given notice of an amendment which followed very much the line of thinking that the Hon Mr Montegriffo has been following and that was to include the words "not inferior in status, responsibility and emoluments" in the position being offered to someone who was coming back from retirement. In view of the explanations given by the Chief Minister we are satisfied with the position and I am therefore withdrawing the amendment.

HON ATTORNEY-GENERAL:

Mr Chairman, may I propose that a new Clause 9 be inserted to amend section 12 of the Ordinance by inserting in that section after the words "If a person" the words "not being a person to whom section 22 applies". Finally, Mr Chairman, I

propose also that a new Clause 10 be inserted to repeal Section 16 of the Ordinance.

HON A J CANEPA:

Could we have some explanation of what this amendment does, Mr Chairman?

HON ATTORNEY-GENERAL:

The Government considers that provision to be obsolete and totally out-of-date, Mr Chairman, and that is, as I understand it, the reason for the repeal of this section.

HON CHIEF MINISTER:

This, in fact, refers to a situation where a former Civil Servant, irrespective of the date, may not even become a director in a company in Gibraltar without the permission in writing of the Governor. If he has not obtained the permission in writing after retiring age since then the pension may be withdrawn, obviously it has not been implemented otherwise there would be a lot of pensioners without pensions.

HON P C MONTEGRIFFO:

Mr Chairman, just one point on that section. The section said that where any person to whom a pension or other allowances be granted under this Ordinance otherwise than under section 18. Section 18 is not the one that we had been talking about principally, we have been talking about section 11 which can include the situation that we spent so much time debating. Is there still not a loophole there? -

HON CHIEF MINISTER:-

No, I will explain to the Hon Member. Section 18 deals with widows' pensions. So the widows of Civil Servants may become directors without losing their pensions but not the Civil Servants themselves as the law stands now. So we do not need to repeal section 18 because section 18 is the right of the widows' pension or the dependents' pension. Section 16 says that if you are anybody other than someone who gets a pension under section 18 then you cannot become a director after retirement without the permission of the Governor.

Mr Speaker then put the question which was resolved in the affirmative and new Clauses 5 to 10 were agreed to and stood part of the Bill.

### The Long Title

HON ATTORNEY-GENERAL:

Mr Chairman, I think perhaps we should amend the Long Title to read "The Pensions (Amendment) Ordinance, 1990" rather than "1989".

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

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

### THE BANKRUPTCY (AMENDMENT) BILL, 1990

#### Clause 1

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I rise with some trepidation after the last Bill, firstly, to apologise to Hon Members that the amendments that I intend to move I was not able to circulate until this morning. Secondly, to note with some dismay that the volume of these amendments is even more voluminous than the previous Bill. I take it, Mr Chairman, that the Committee would like to proceed as they did with the previous Bill and I will take each amendment in turn and pause for any comments or explanations that Members might want. In terms of Clause 1, Mr Chairman, I move that the side heading "Title" be amended by the addition of the words "and Commencement". Also that the figure "(1)" be inserted after the figure "1" and a new subclause be inserted as follows: "(2) This Ordinance shall come into effect on such day as the Governor by notice in the Gazette shall appoint and different days be so appointed for different purposes". I think the purpose of that amendment, Sir, is self explanatory.

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

#### Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have twelve amendments to make to this Clause. As I say, I will go through them one by one and pause at the end of each one.

HON A J CANEPA:

Mr Chairman, these amendments are of a very technical nature. We in the official Opposition are laymen on these matters and therefore I do not think that it is necessary that they should be taken individually, not for us anyhow. As far as we are concerned, they have been circulated and they could be taken as read and I would leave it for those with a more circumspect legal turn of mind to really identify anything which gives cause for concern and which might be wrong in the proposed legislation. But we, as laymen, are not in a position to do that, Mr Chairman.

MR SPEAKER:

Will the Hon Mr Montegriffo explain his position, please.

HON P C MONTEGRIFFO:

Mr Speaker, from my point of view I am familiar with a lot of what has been going on with this Bill although I am not sure that the final reference in subclause (1) is something I understand completely. Could perhaps the Hon Financial and Development Secretary just deal with that part because it makes provision for a Register. Is that Register in respect of such trusts to which this Ordinance would apply? That is something which I have not seen before in the amendments that have been suggested. It is an entirely new addition to the Ordinance and if perhaps the Hon Financial and Development Secretary could deal with that I would be grateful. The rest of it I am happy to accept.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I could clarify that, Sir. It is simply felt that to avoid the opportunities of abuse that might possibly be open to the use of this Ordinance, it was felt that a registration process would be necessary to weed out any inappropriate use of the provision.

HON P C MONTEGRIFFO:

Mr Chairman, this I think is serious. One of the virtues that Gibraltar affords at present to Trusts that can be set up here, Mr Chairman, is the fact that there is no type of register or filing requirement or any other type of public record of Trusts set up here. Indeed, there is the case in most Financial Centres of the type with which we are in competition. I believe it would be a serious mistake to include that clause at the end. I very much want to see this legislation in place. Professionally I am aware of many people who want this legislation to go through but I am sure that there cannot have been consultation with other professional parties interested in this matter with that clause because that, I really think, would destroy one of the huge benefits that we have. That you can set up such an

arrangement in Gibraltar within the confines of the law but there is no place where anybody can go to search anything or register that. That is the way a Trust should be and to establish a register I think is wrong. I really do think it is wrong. I would prefer truly, Mr Chairman, to ask the Government not to proceed with this Third Reading rather than see the reference to the register included.

HON CHIEF MINISTER:

Mr Chairman, the new subsection creates enabling powers, it does not create a register. It says: "The Financial and Development Secretary may by regulation make provision for the establishment of a register" and therefore this does not create the register itself. It gives us the power at a later stage should we choose to do it, by regulation to create the register. We are not prepared to stop the Bill because of this because, in fact, as the Member opposite well knows the Bill had been initiated by representations from professionals within the sector who seem to be incapable of reaching agreement amongst themselves. And at the end of the day what we have got here is what we thought finally had everybody happy. As far as we are concerned, if the Hon Member is correct in saying that making the regulations and creating the register would effectively negate what we are trying to do with the amendment which is, in fact, to create an environment within which trusts will be attracted to Gibraltar, that is the purpose of doing it, it would be complete nonsense to amend the law to make it more attractive for people to come here and then to amend it another way that makes it unattractive for them to stay here once they come.

HON P C MONTEGRIFFO:

Mr Chairman, I am grateful for that and I understand what the Chief Minister is saying. The only thing that I would ask him to consider is that when this law is published, and I know as well from personal experience let me say, that a good degree of international attention, in the world of trusts, looking at this Bill and when they see the simple reference to the ability to create a register even though it is only an enabling power and not a power which may necessarily be exercised, I think it will have a deterring effect. As I say, I have been quite intimately involved with some of the things that have been going on, Mr Chairman, and I can tell you that I am the last one to want to stop it. But I really think that this is a mistake. I can do no more than to express that view. Remember that we are looking towards, and why not elaborate, we are looking towards people who want to establish arrangements in Gibraltar but the whole basis of a trust is often confidentiality where they can set up arrangements in the knowledge that it is not open to somebody who may be a tax inspector from another jurisdiction to search a public registry, get details of the trust and continue investigations as a result of that. I

think the provision for a register, even if it does not take place in practice, but there is provision for it, is going to send alarm bells ringing in the heads of some people who would otherwise, I know, be extremely keen to use Gibraltar as a base. Can I make one suggestion only? Would the Government be amenable to give this an overnight stay? I invite the Government to liaise with those who have lobbied for it or to do whatever is necessary with a view to deciding on the matter. That is all I am saying, Sir.

HON CHIEF MINISTER:

Mr Chairman, we have got a couple of Bills that we are taking the Committee Stage tomorrow, so I am prepared to leave this Bill for tomorrow so that we can check out with other interested parties whether they coincide with the views put forward by the Hon Member. We will then take a second look at it. But I am certainly not prepared to leave it for another meeting of the House because I think it has been around for too long.

HON P C MONTEGRIFFO:

Sir, I agree with that.

MR SPEAKER:

So the House then agrees to defer consideration of this Bill until tomorrow.

#### THE PUBLIC HEALTH (AMENDMENT) BILL, 1990

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

#### Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have two amendments to move in respect of Clause 2. Firstly, omitting the words "in his discretion" in subsection (3) of section 271 and substituting therefor the words "in accordance with the criteria laid down for that purpose from time to time by the Government of Gibraltar". Secondly, omitting the words "as the Financial and Development Secretary in the exercise of such discretion may decide" in subsection (3) of section 271 and substituting therefor the words "as shall be provided for in such criteria".

HON A J CANEPA:

Can we have, Mr Chairman, from the political side of the Government, the reasons behind this amendment?

HON CHIEF MINISTER:

Actually on this occasion, I think, the Financial and Development Secretary could have given a very good explanation because he felt that he would be happier in having the criteria laid down for him by the political side of the Government rather than having it in his discretion. We were quite happy to do it one way or the other but his feeling was that at the end of the day the judgement should be the judgement of the elected representatives and we are happy to go along that road. It suits the thinking of the Government but we had put it initially, as is perhaps more normal in our laws, at the discretion of the officials. This has tended to be the paramount factor rather than the discretion of the elected representatives. I am glad to say that the Financial and Development Secretary preferred the latter option.

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

#### Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have a number of amendments to move here, Mr Chairman. Firstly, that Clause 3 is omitted and replaced by a new Clause. This is rather lengthy and I wonder whether Hon Members wish me to read it all out.

HON A J CANEPA:

I think we can take it as read, Mr Chairman, and perhaps some explanation could be given.

MR SPEAKER:

Does the Hon Mr Montegriffo with that?

HON P C MONTEGRIFFO:

Yes, Mr Chairman.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The principle implications of what is here, Sir, is to extend the Bill effectively to take out of operation certain exemptions of rates that were in the Ordinance previously. In particular in relation to the exemption for a building yet to be built; a building that is dilapidated, and a building that is empty.

HON A J CANEPA:

What is it, that rates will not be levied in these circumstances?

HON CHIEF MINISTER:

Rates at the moment are not levied, Mr Chairman, and what we are doing is we are removing the exemption from rates on the grounds that the building is unoccupied or dilapidated because in looking at the situation we have come to the conclusion that, in fact, it can be an incentive to keep the building dilapidated rather than an incentive to keep it repaired if you do not pay rates.

HON A J CANEPA:

What about the provision that there is at the moment, Mr Chairman, whereby somebody purchases a flat or rents a flat and they are refurbishing it, like a couple wanting to get married, and during the period of refurbishment or repairs I think up to about six months are allowed, it is effectively a rebate on rates. What will happen in those instances? Is building different to dwelling?

HON CHIEF MINISTER:

That provision, in fact, remains in the Ordinance and it is at the discretion of the Financial and Development Secretary whether it is a reasonable period given the complexity of the work involved.

HON P C MONTEGRIFFO:

Mr Chairman, I am trying to recall the debate that we had at the Second Reading of this Bill. But what is new, is it not, and perhaps Members opposite can confirm this, is the much wider powers which the Financial and Development Secretary now, taking into account the criteria which the Government will have set down, will have to exempt payment of rates where in the view of the Government there is a view that to do so is in the interest of development in Gibraltar. That, as I understand it, is the principle thrust of the Ordinance in that respect. Am I correct in that assumption, Sir?

HON CHIEF MINISTER:

I think that the Hon Member opposite, Mr Chairman, is going back to Clause 2 again.

HON P C MONTEGRIFFO:

Yes, Sir.

HON CHIEF MINISTER:

No, the position is that the exercise of the judgement as to whether an incentive was desirable or required in order to promote a particular development would previously have been done by the Financial and Development Secretary on the basis of what he considered was necessary. Under the amendment that we have moved now and which we have just voted, in fact, in exercising that judgement he will be working to guidelines laid down by the Government and we are doing that, as I have already explained in answer to the Leader of the Opposition a minute ago, it is because the Financial and Development Secretary suggested that himself.

HON P C MONTEGRIFFO:

But is it not the case, I am just seeking clarification, that the previous exemption provisions were linked to Development Aid?

HON CHIEF MINISTER:

Those remain, Mr Chairman. Those have not been changed.

HON P C MONTEGRIFFO:

So it is just in addition to a Development Aid certificate.

HON CHIEF MINISTER:

Yes.

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

#### Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would like to move, Mr Chairman, that Clause 4 be amended by omitting everything after the word "by" in line 1 up to and including "(b)" in line 6. It removes the whole of that subsection in 4(a) which relates to electricity and water supply. The purpose behind this amendment is it is felt, on reflection, Sir, that given powers that are intended in section 2 that that Clause is not necessary.

HON K B ANTHONY:

Mr Chairman, I have not understood what the Hon Financial and Development Secretary has said but although accepting part 2, as he says, it does not mean that it is necessarily going to be a rate free situation in the future for water and electricity in generating areas.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not necessarily, Sir, it will be subject to the criteria as set out under section 2.

HON K B ANTHONY:

I find it a bit confusing, Mr Chairman, that this was put in, first of all, an additional paragraph and I was wondering what the thinking was behind this and now it has been deleted before it has even been put in the law.

HON J C PEREZ:

Mr Chairman, it was put in as a result of the contract signed with Omrod because whatever you charge the company at the end of the day you are going to be charged back in the rate that you have to pay per unit of electricity. So it was put in specifically for this.

HON K B ANTHONY:

I understand that, Mr Chairman, but it is not laid down anywhere that it will be done, it can be done but it does not say that it will be done.

HON J C PEREZ:

Obviously if we are voting ourselves power to do it and the aim of the other one was to be able to do it, the Hon Member can take it that it will be done.

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

HON P C MONTEGRIFFO:-

Mr Chairman, could we please go back to Clause 2. Could the Attorney-General confirm what present power there is now in the Public Health Ordinance that allows the Financial and Development Secretary to waive payment of rates, if he is of the view in his own criteria as explained by the Chief Minister, that a development would benefit from that waiver?

HON ATTORNEY-GENERAL:

I am not quite clear what the Hon Member is asking, Mr Chairman. I have not got the Ordinance in front of me but if I remember the relevant provisions correctly, as the law stands at present it is only on account of poverty that there can be exemption from rates. The Government is, of course, seeking to be able to remit rates in very much wider circumstances and those limited circumstances which exist at present.

HON P C MONTEGRIFFO:

Mr Chairman, I thought the position as explained by the Chief Minister a moment ago was that the law already was that the Financial Secretary could waive rates but that instead of using his own criteria he would now use the criteria of the Government. What is then happening is, indeed, that there is no power at present for the Financial and Development Secretary other than on grounds of poverty, to exempt payment of rates.

HON ATTORNEY-GENERAL:

That is what I have just said, Mr Chairman.

HON P C MONTEGRIFFO:

Exactly. So therefore this is a new power which the Government is seeking to obtain.

HON CHIEF MINISTER:

Mr Chairman, I think the Hon Member opposite is particularly obtuse today, I do not know whether it is the levanter or what it is. We are now on the third round again.

MR SPEAKER:

I must warn the Hon Chief Minister that I will have to stop him for repetition if he is not careful.

HON CHIEF MINISTER:

I accept, Mr Chairman, that I am transgressing the rules of the House in repeating myself but I do not want the Hon Member to think that we do not want to give him the explanation. We had already in the original Bill created powers to enable the Financial and Development Secretary to do something. We are now amending that and we have already voted that amendment. The amendment that we have voted which the Leader of the Opposition asked for an explanation about and which I already gave now twenty minutes ago, and not ten, were the result of the new Financial and Development Secretary's own view that as far as he was concerned he would prefer that if he was going to use his judgement in deciding whether a particular type of development or a particular industry was going to be treated differently, then the guidelines should be laid down by the elected Government of Gibraltar and therefore the amendment that we are bringing today, which is what we have debated and voted, is to allow that to happen. What the Hon Member opposite asked was what happens then to places that have got development aid and did not pay rates, as we understood the question. The answer is what happens there is not changed and continues as it was.



HON P C MONTEGRIFFO:

I am grateful for that but the point I am seeking to make is, and it is only to clarify my own position on this Bill and which I now give notice that I will not support even if, for the record, it is too late formally to do so. But certainly for the public consumption I will not support the view, Mr Chairman, that there is an additional power to be given to the Financial and Development Secretary without any form of published criteria, we assume, for him on any criteria which the Government may determine to waive rates. It should be a matter which is done either under Development Aid or under a specific criteria which is published but not simply with a man sitting at his desk saying "I decide to do it that way". I mention it only because I thought I had asked what, in fact, this Bill was doing, the Bill in its entirety not just the amendment to the Bill. In fact it gives the Financial and Development Secretary and the Government therefore, a wholly new power to waive rates which did not exist before. I think the matter has been clarified and in the light of what I have said, therefore, I would not vote in favour of that Clause, Sir.

HON J C PEREZ;

He would not have voted if he had known at the time, Mr Chairman.

HON P C MONTEGRIFFO:

If I had been given a full explanation at the time, that is correct.

HON J C PEREZ:

If he had asked for a full explanation he would have had it.

HON P C MONTEGRIFFO:

The record will show exactly what the explanation was and I think it may make interesting reading.

HON ATTORNEY-GENERAL:

Mr Chairman, can I just add, for the Hon Member's enlightenment, that if a law purports to give a discretionary power to take away something which somebody has already then, of course, there has to be a basis for doing that and it would be an appropriate circumstance to specify criteria in the legislation justifying the deprivation of something which somebody has. But what the Government is doing in this case, Mr Chairman, of course, is to confer a benefit upon someone to give him the benefit of not having to pay rates. That is not a deprivation of anything, Mr Chairman, that of course is a benefit.

HON P C MONTEGRIFFO:

Mr Chairman, if the Hon Attorney-General thinks that that does not cost somebody something else then I think he is wrong because surely if someone does not pay something then it is costing others, that are paying, more because eventually at the end of the day the Government is getting less revenue and we are all worse off.

MR SPEAKER:

So the Hon Mr Montegriffo will be voting against that Clause.

HON P C MONTEGRIFFO:

If it is possible to correct the record I would be grateful, Mr Chairman.

MR SPEAKER:

We will do that. So we are going back now to Clause 2 of the Bill and we will take a vote.

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 K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

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 Dr R G Valarino

Clause 2, as amended, stood part of the Bill.

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

New Clause 6

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would like to move the introduction of a new Clause 6, Mr Chairman, to read as follows: "Amendment to Section 294 - 6. The principal Ordinance is further amended by omitting in subsection (4) of section 294 of the word "Governor" and substituting therefor the words "Financial and Development Secretary".

Mr Speaker then put the question which was resolved in the affirmative and new Clause 6 was agreed to and stood part of the Bill.

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

THE MERCHANT SHIPPING (AMENDMENT) BILL, 1990

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

Clause 4

HON M A FEETHAM:

Mr Chairman, just a slight amendment. There is a printing error in Clause 4, page 48, paragraph 4, line 8. We need to insert a bracket in front of the word "be".

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

Clause 5

HON M A FEETHAM:

Mr Chairman, again another printing error. In page 54, paragraph 10, line 2, the insertion of the word "any" immediately before the word "person".

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

Clauses 6 to 8 were agreed to and stood part of the Bill.

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

THE BUSINESS TRADES AND PROFESSIONS (REGISTRATION) (AMENDMENT) BILL, 1990

HON P C MONTEGRIFFO:

Mr Chairman, I will be voting against the Bill:

Clauses 1 to 4

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
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 Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

Clauses 1 to 4 stood part of the Bill.

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

THE SOCIAL SECURITY (NON-CONTRIBUTORY BENEFITS AND UNEMPLOYMENT INSURANCE) (AMENDMENT) BILL, 1990

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

Clause 2

HON R MOR:

Mr Chairman, just a slight amendment. On page 34, the third bottom line where it says "remained" it should read "remainder".

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 BUILDING SOCIETIES (AMENDMENT) BILL, 1990

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

Clause 11

HON FINANCIAL AND DEVELOPMENT SECRETARY:

May I move a small amendment to Clause 11, Sir. It is purely a typing error. At the bottom of the page delete the word "Register" and insert the word "Registrar".

Mr Speaker then put the question which was resolved in the affirmative and Clause 11, as amended, was agreed to and stood part of the Bill.

Clause 12 was 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) (NO.2) BILL, 1990

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

Schedule

Part I - Consolidated Fund

HON G MASCARENHAS:

Mr Chairman, Head 3, subhead 8, there is an extra provision now required of £18,200, it is for the provision of extra courses. Would the Minister please enlighten us?

HON J L MOSS:

Certainly. That was due to extra courses that were put on the Business Studies side and which had not been provided for in the Estimates. We run those courses really in conjunction with the DLSS, as part of the Training Scheme, for people who were leaving school.

HON G MASCARENHAS:

Purely extra courses for Business Studies?

HON J L MOSS:

That is correct.

HON K B ANTHONY:

Mr Chairman, under Head 17, subhead 11 - Investigation Expenses. This represents an increase of 45%. In view of the increases as a result of the number of cases requiring forensic examination, is Government satisfied with this state of affairs or should we perhaps set up our own forensic laboratory?

HON ATTORNEY-GENERAL:

Mr Chairman, we have facilities only in Gibraltar in connection, for example, in drugs cases for testing cannabis or cannabis resin. There has been a great increase in the number of drugs cases and prosecutions particularly for drugs related offences and the consequence of that is that exhibits have to be sent to England for forensic testing so that the necessary essential evidence can be obtained. It is not only in drugs cases, of course, Mr Chairman, there are many other types of criminal cases where it is necessary for exhibits which are taken by the Police to be sent to UK and examined such as burglary cases, for example, paint scrapings, fibres on clothing in sexual assault cases since it is absolutely essential to have appropriate forensic evidence in that type of case. I could go on and on, Mr Chairman, the list could not possibly be exhausted but there is a necessity for that. It is not for me, at this stage, I suppose, to comment when or if we will have a suitable forensic science laboratory in Gibraltar. Personally I would love to see one but that is for the Chief Minister and the Government to determine when or if economic considerations make that possible. At the moment though we are confined to going elsewhere to obtain the necessary forensic evidence in appropriate criminal cases.

HON K B ANTHONY:

I thank the Hon Attorney-General for that answer. Can I perhaps now call upon the political side of the Government whether they have considered seriously setting up their own forensic laboratory sometime in the future?

HON CHIEF MINISTER:

I can tell the Hon Member that with the amount of money we are voting here we would be hard pushed to employ an extra sergeant never mind a forensic laboratory.

HON A J CANEPA:

Mr Chairman, Head 11 - Income Tax Office for which we are appropriating £3,300. Has the lease run out? Does the Government require to renew the lease? What is the future of the Income Tax Office as regards that building?

HON CHIEF MINISTER:

The Income Tax Office will be moving to St Jago's hopefully at the beginning of the next financial year and we hope that, in fact, the premises that we are renting we will be able to terminate in March. The work is fairly advanced of the internal refurbishment to suit their own particular requirements.

HON A J CANEPA:

Is that the reason why originally the Government were going to come to the House for £27,000 for the Income Tax Office?

HON CHIEF MINISTER:

That is correct, yes. We found that, in fact, there were savings in other areas which we could use to pay for that rent without having to bring a supplementary vote.

Part II - Improvement and Development Fund

HON K B ANTHONY:

Mr Chairman, under Head 104, subhead 25(N) - Improvements to Beaches and Rockface Protection. Presumably it is the Rockface protection outside the Camp Bay area which has got a special grant from ODA.

HON J C PEREZ:

Mr Chairman, there is a small allocation made there for Rockfall protection in the preliminary studies that are taking place. The case for the ODA has not yet been prepared although agreed, in principle, with the ODA. They said it might be that there is a possibility that the Government of Gibraltar might have to pay for the preliminary studies and then they would pay for the whole of the works. But that might not be the case and therefore, basically, this is for the improvement to beaches although there is a small amount of money there for the Rockfall situation as well. There is some money there, of course, for clearing up the rocks of Camp Bay when the situation is made safe.

HON K B ANTHONY:

Does that also include, Mr Chairman, Rockfaces other than Camp Bay?

HON J C PEREZ:

Yes.

HON A J CANEPA:

Mr Chairman, the public lighting at Alameda Grand Parade. I understand that there has been considerable tampering with vehicles in Alameda Grand Parade, is that the reason?

HON J C PEREZ:

That is right. It goes back a very long time. There have been petitions, I think to the previous Government, and then to us and we were not very keen in extending the public lighting pending decisions that might be taken if there is development in the area but since we received a report from the Police that the tampering of vehicles continued at a very high rate we have gone ahead because the cost of providing public lighting there is minimal compared to the damage that is being created.

HON K B ANTHONY:

Mr Chairman, Head 109, - Electricity Service. This presumably is phase one of the Omrod interconnector for GibElec.

HON J C PEREZ:

That is right. This is, in fact, the connection with Omrod directly but will be able to be used by Omrod or by the MOD Generating Station, they will both be connected to the same cable. We are expanding the present one and they will both be able to supply the Government of Gibraltar and vice versa as regards the MOD.

HON K B ANTHONY:

Does the Hon Member have any idea of how many phases there will be in this operation?

HON J C PEREZ:

I cannot answer that question specifically at the moment because the programme might be brought forward and therefore it might be that there will only be one more phase because it is possible that the installation of engines will be quicker than anticipated. Therefore we would have to have the cables there to be able to utilise the capacity to the full. But if I recall rightly, at the time of the signing of the contract that was scheduled to be in three phases but it might be that we will be able to cut that to two phases.

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

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

The Long Title

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, since we have not proceeded with the Bill's predecessor we need to delete the term "(No.2)" from The Long Title.

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

MR SPEAKER:

We will now recess until tomorrow morning at 10.30.

The House recessed at 6.45 pm.

FRIDAY THE 16TH FEBRUARY, 1990

The House resumed at 10.45 am.

THE BANKRUPTCY (AMENDMENT) BILL, 1989 (Continued)

MR SPEAKER:

We are now at the Committee Stage of the Bankruptcy Ordinance and we will carry on from there.

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would like to give notice, Mr Chairman, that it has not been possible to resolve, in such a short time, all the fears that were being expressed yesterday concerning the provisions of Regulations and I would like formally to give notice that it is the Government's intention to withdraw from Clause 2 the provision in respect of 42A(1)(e) that deals with the Register and also the new proposed Clause 4 that deals with the Regulations. The intention being, Sir, and I would like to give notice now, to discuss further the implications of the Register with a view to bringing further amending legislation at the next House.

HON P C MONTEGRIFFO:

I welcome that, Mr Chairman, and I think it gives the Government and us time to consider the implications.

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 IMPORTS AND EXPORTS (AMENDMENT) BILL, 1990

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

Clause 2

HON A J CANEPA:

Mr Chairman, in Committee we were hoping that there was going to be an amendment made to Clause 2.

HON CHIEF MINISTER:

Yes that is right Mr Chairman and before we leave the Committee can we go back. Having considered the point made yesterday, the Government is prepared, in fact, to meet the request of the Opposition to the extent of laying the Regulations at the next meeting of the House after they have been enacted and therefore what I would propose to do is to amend Clause 2 by adding the words "and any such regulations shall be laid at the table of the House at a subsequent meeting" after the words "thereunder" in the final line of the new section 49 which is the section that creates the power for the Governor to make Regulations.

MR SPEAKER:

Are you happy with that or would you like the amendment to be written down?

HON A J CANEPA:

No, I am entirely happy with that Mr Chairman, it meets the point. We are glad to see the Government has been able to take the matter on board and we shall be supporting the amendment. That leaves the way for us at the Third Reading of the Bill to vote in favour.

HON P C MONTEGRIFFO:

One small point, Sir, is the amendment as proposed by the Chief Minister in fact in accordance fully with Section 24-28 of the Interpretation Clauses Ordinance? I think it is Section 28, which goes further than just allow the details to be tabled and which in fact in a sense is superfluous because it is going to appear in the Gazette, I imagine.

HON CHIEF MINISTER:

Mr Chairman, I am not saying it does or it does not. All I am saying is that last night we were asked to do at least that and we said we would consider it and we left the Committee Stage for this morning and that is as far as we are prepared to go. So if that is not enough for the member

opposite then he can either vote against or abstain. Independent of anything else, I may say anywhere else, what we are prepared to do is because we thought frankly it was a reasonable request to lay them on the table at the House.

HON A J CANEPA:

Mr Chairman, there is a very serious practical difficulty for the Government. If the Government wishes to raise Import Duties and if it is going to do so by Regulation then it has to come into effect immediately otherwise traders knowing that Import Duties are going to be increased after the next meeting of the House would be stocking up. I see the practical difficulty and the impossibility, in real terms, of equating this to what has been done previously and which is the point that is being made by the Honourable Mr Montegriffo. There is this practical reality which has to be recognised and therefore the Government, in my view, can only meet us part of the way. I think if I were on that side of the House and was minded to do what the Chief Minister is doing I could only go that far.

HON P C MONTEGRIFFO:

Mr Chairman, I disagree with that but if I am given a chance just to look at the section but I disagree because if that logic were to hold any water, then the same would be the case in respect of the Financial Services Ordinance. The House passes Regulations which are published to any particular area of business.....

HON CHIEF MINISTER:

Mr Chairman, let us be clear we are not prepared to go to the extent that the Honourable Member said about the Financial Services Regulations that he mentioned yesterday because in the Financial Services Regulations there was a provision that it had to be done in twenty eight days, that is what he said yesterday.

HON P C MONTEGRIFFO:

Well I was not sure.

HON CHIEF MINISTER:

Independent of what it says in any other Regulation, in this Ordinance this is as far as we are prepared to go, therefore I am moving this amendment, the Member opposite can either vote against or in favour or abstain, but it is not going to make us move any further than this, that is what I am saying.

MR SPEAKER:

I think the Chief Minister has made himself clear. He is not going to be persuaded otherwise.

HON P C MONTEGRIFFO:

I understand that Mr Chairman. I would just like it to be recorded that what I was seeking to ask the Chief Minister to do, and I respect his view that he disagrees, was that it should be an equivalent provision to that introduced in the Financial Services Ordinance, whereby the House would not have the rules tabled as a matter of good information, but that there would be power to actually raise an issue and disagree or agree or ask that it should be changed. The simple tabling of the Rules would not allow any debate or discussion on the matter, and for that reason I will be voting against that particular section.

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members voted against:

The Hon P C Montegriffo

Clause 2 as amended stood part of the Bill.

Clauses 3 to 9 were agreed to and stood part of the Bill.

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

#### THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Contract and Tort



(Amendment) Bill, 1990, with amendments; the Sale of Goods (Amendment) Bill, 1990, with amendments; the Pensions (Widows and Orphans) (Amendment) Bill, 1990, with amendments; the Criminal Procedure (Amendment) Bill, 1990, with amendments; the Pensions (Amendment) Bill, 1990, with amendments; the Bankruptcy (Amendment) Bill, 1990, with amendments; the Public Health (Amendment) Bill, 1990, with amendments; the Merchant Shipping (Amendment) Bill, 1990, with amendments; the Business Trades and Professions (Registration) (Amendment) Bill, 1990; the Social Security (Non-Contributory Benefits and Unemployment Insurance) (Amendment) Bill, 1990, with amendments; the Imports and Exports (Amendment) Bill, 1990, with amendments; the Building Societies (Amendment) Bill, 1990, with amendments; and the Supplementary Appropriation (1989/90) Bill, 1990, with amendments, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Contract and Tort (Amendment) Bill, 1990; the Sale of Goods (Amendment) Bill, 1990; the Pensions (Widows and Orphans) (Amendment) Bill, 1990; the Criminal Procedure (Amendment) Bill, 1990; the Pensions (Amendment) Bill, 1990; the Bankruptcy (Amendment) Bill, 1990; the Merchant Shipping (Amendment) Bill, 1990; the Social Security (Non-Contributory Benefits and Unemployment Insurance) (Amendment) Bill, 1990; the Building Societies (Amendment) Bill, 1990; and the Supplementary Appropriation (1989/90) Bill, 1990, the question was resolved in the affirmative.

On a vote being taken on the Public Health (Amendment) Bill, 1990; the Business Trades and Professions (Registration) (Amendment) Bill, 1990; and the Imports and Exports (Amendment) Bill, 1990, the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
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 Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The Bills were read a third time and passed.

#### PRIVATE MEMBERS' MOTION

HON A J CANEPA:

Mr Speaker, I have the honour to move that: "This House considers that the proceedings of the House should be televised and all aspects of the matter should be considered by the appropriate Select Committee".

Mr Speaker, I hope very much that this motion will prove to be uncontroversial. It is a very simple matter really, the motion is a very simple matter, in that all that I am asking the House is to indicate that it approves, in principle, the idea that it would be desirable to televise the proceedings of the House, but conscious of the fact that there could be numerous implications, not the least considerable being the financial implications, and that the practical consequences should be gone into and should be examined, perhaps by the appropriate Select Committee. I shall have something more to say about that aspect of the motion and the question of the Select Committee in due course. It is now, Mr Speaker, three years since the proceedings of the House have been broadcast over GBC radio and I think that the experience has been very positive. It has been worthwhile and conducive to arousing greater interest in the proceedings of the House. Honourable members who have been members of previous Houses of Assembly will recall, will know, that the introduction of broadcasting of the proceedings of the House over the radio was considerably delayed. There were numerous members of the House, in the past, who felt that that should have happened much earlier on and possibly the delay of a number of years occurred because there were fears as to how the experiment would work and what the experience would be. There were fears, I think, that Honourable Members would play up to the gallery, that longer speeches would be made and that there would be a great deal of acrimony. I think that those fears have been proved to have been unfounded. I do not think that in the last three years there has been any more acrimony than was previously the case, certainly not going back to 1972, when I first became a member of the House, and I think that both the previous House, in other words that the House of Assembly between 1984 and 1988 and the present House of Assembly, are as well behaved as any other House has been, notwithstanding occasional eruptions. I think that we are very brisk and businesslike in our approach and speeches are very much to the point and we get through our business perhaps quicker, certainly than I would say most previous Houses between 1972 and 1984. I have no doubt that we get through our business much quicker, much more

to the point. So I think the experiment, if I may call it that, of broadcasting the proceedings of the House on the radio has been a great success and the time has come to consider whether we ought to be more ambitious. I say that because the experience of those rare occasions, of a ceremonial nature, when the proceedings of this House or at least part of the proceedings of this House have been televised, has also been very positive. The Ceremonial Opening of the House in April 1988 and more recently the swearing in of his Excellency the Governor on the 1st December, both occasions were televised, and were very well received by the public. We are all aware, Mr Speaker, of the fact because we can see that from our television screens, now that the proceedings of the House of Commons are now being televised under certain conditions, an experiment that commenced in February 1988 for an eighteen month period during which on the basis of that experiment a framework will be established for the future. There has been a great deal less misbehaviour in the House of Commons than was anticipated in spite of occasional problems and in spite of members being seen on television shouting across the floor to others that they should "shut up you fools". That in Gibraltar is very unlikely to happen, I think, because of the nature of our community, that would be very badly received, that sort of behaviour would be very badly received in Gibraltar and Honourable Members who lost their cool and their temper and reacted in that manner in the House and were to be seen on television to do that, I think, that they would get a lot of stick from members of the public, they would come up to them and tell them and therefore, I think, that we are not likely to see a repetition of that. I would not advocate, based on our experience here from broadcasting over radio and based on the experience of the United Kingdom, I would not advocate that all the proceedings of the House should be televised live. Yesterday, Mr Speaker, we saw that we had in Committee very intricate toing and froing with Bills for about a period of half an hour, particularly during the Pensions Bill, and whilst some of the points that are sometimes made have a clear interest to the public very many people listening on radio or watching on television would be completely lost, so I would not advocate that Committee Stage should be televised, but certainly if there is going to be live coverage and our hours by and large, the hours during which we sit, are by and large convenient or very likely to be convenient for television, I would advocate that Questions and Answers, Government Bills and Motions from both Government and Opposition and I say Government because no doubt a motion discussing the future of Gibraltar or the Accounts of Gibraltar is a matter of great public interest and then of course invariably most Private Members motions are also matters of public interest. As I say, Mr Speaker, I advocate the televising of the procedures of the House because it is important to always try to improve the awareness and

the understanding that the electorate should have of the democratic process. It is important that they should be able to see the people that they elect performing and, I think, if anything the incentive for the members of the House would be to try to perform better. By better I mean in a more professional sense if I may use that word. I think it would enhance the standing of the House of Assembly, and I think that we would bring home to people, to the general public, the importance of the House in the affairs in the life of Gibraltar. The crucial importance that it has as to what it represents which is the focal point of democracy. Democracy is something which is priceless Mr Speaker. To have said in the past during an election campaign when we were encouraging people to go to the polls to vote, to have said, to have used as an argument, that people have died, have been prepared to die for the vote, for democracy perhaps sounded like a historical cliché, but we have seen that on our television screens in recent months. People today are prepared to die for democracy and those of us who have that priceless asset should value it and we should do everything in our power to bring home to the people who put us where we are, to the electorate, that it is something that they must cherish, value and uphold. And what better way that the standing of this House, the dignity of this House should be enhanced by the public understanding, in a far more profound manner, what we are on about. We had yesterday an exercise in which we members of the Opposition were criticising the Government for a piece of legislation that was brought here and we said that it was a step in dismantling democracy, but at the end of the day, I have no doubt regardless of what we say, that the debate in itself was an important exercise in democracy and the manner in which it has been reported in the media shows that that is the case, that we should differ is part and parcel of the business of democracy, but that we should have the opportunity in this House and outside the House to express our views passionately and that we should be seen to be doing that is absolutely crucial and we must do everything in our power to ensure that the public understands that. Of course we quarrel, of course we disagree and of course we get het up about things, but we are here for a very serious business, for a very serious matter, and that is the way in which this community is governed and the principles on which that Government, the principle of parliamentary democracy, the western style type of democracy, constitutional government, that those are matters that we value and we want to be seen publicly playing the role which is crucial in all that. Mr Speaker, in the United Kingdom, as I said earlier, there is an experiment which is going on for eighteen months as from February 1988. I think that it is continuing until the summer recess of this year and then there is going to be a process of stock taking. I have got here an extract from a newsletter which the Clerk of the House of Commons sends twice a year to members of the Society of Clerks-at-the-Table and it is an interesting report as to what is

happening in the United Kingdom and I would like to read from the last paragraph of it which really sums up the position. "The conclusion is that there have been no signs, there have been no immediate signs, of the House becoming either more or less disorderly than it was before, although there is an increased demand to speak and some anxiety about the number of bogus points of order at prime time, but it is still too soon to say whether television is going to lead to any other significant changes in patterns of behaviour of or use of procedures". So the initial reactions, as seen by the Clerk of the House of Commons and that is a valuable judgement, a valuable assessment because the Clerk of the House of Commons is a figure of great respect in the House, invariably a person of long experience about the proceedings of the House. I think I should also mention that the funding, the financial arrangements in the United Kingdom are rather peculiar and they are worth going into. The House does not pay, the House of Commons or the Government does not pay for the televising of the proceedings of the House. A rather ingenious way has been found of making provision for that and I think it is a matter that we would want to study here. It may not be of practical application here but the manner in which it is being financed in the United Kingdom could give rise to, it could elicit further thought and we might be able to adapt with some ingenuity the arrangements that are being made there. I am advocating in the second part of my motion Mr Speaker that the Select Committee of this House which at the moment has not actually been appointed should look into the matter. There is a Select Committee which went into the question of the broadcasting of the proceedings of the House on radio and which was the forum of consultation for what has happened in the intervening period, including meetings with the Chairman and the General Manager of GBC and in the present House of Assembly, in the last couple of years or so what has happened, Mr Speaker, as you well know is that the Chief Minister and I, who would both in the normal course of events be members of that Select Committee, which would be chaired by you Mr Speaker, we have an informal arrangement which we channel through your office, through yourself, through the Clerk, and it has worked perfectly well. If the Chief Minister does not feel that it is necessary to constitute formally the Select Committee and that it should formally be looked at in this manner then I would be happy to agree with the Chief Minister that perhaps we should ask you, Mr Speaker and the Clerk to go into the matter and to prepare a report initially for the Chief Minister and myself and then for the House to consider and discuss. There are administrative arrangements that have to be made, practical arrangements, financial implications to be gone into, they require considerable study. I think if the House is agreed, in principle, about the desirability of proceeding in this manner, it is obviously necessary for the House to consider the financial implications in particular. If it were to be felt by the Government that because of financial stringency

the experiment is not one that can be afforded, if the Government is going to be expected to foot the bill, if there are no other more ingenious roundabout means of financing the experiment then it would be regrettable, but at least because I imagine that the principle is one which is likely to be of general acceptance, at least if we are not able to go as far as we would like to, Mr Speaker, let it be because we know that the practical implications, that the actual implications are such that we would preclude that. Mr Speaker, I commend the motion to the House.

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

HON CHIEF MINISTER:

Mr Speaker, I propose to move an amendment to the motion, but it is an amendment that I think has already been covered by what the Leader of the Opposition has said. The amendment is to insert the words "in principle" after the word "considers" which he in fact has already said is what he is looking for an agreement, in principle, because I think if we leave it out, then effectively we have already decided in the motion that we should be televising even before we have established whether it is feasible to do it for a variety of different reasons including the economics of the operation. The other thing is that rather than the appropriate Select Committee, which is a Select Committee that we had previously on broadcasting, I would rather have a more informal arrangement and therefore what I propose is that we substitute for the words "the appropriate Select Committee", the words "a sub-Committee set up for the purpose" so that independent of the normal arrangements we can get together and decide who we want to nominate to take a look at all the factors involved in this. Needless to say we share entirely the sentiments of the Leader of the Opposition in his introduction to his original motion and as I say my amendments are not intended to alter one iota anything that he has said, but I think it reflects more the extent to which we can commit ourselves. If it is possible to do it, we want to do it, independent of the mechanics of it, we have to look at the economics of it in the context of the funds that we have available and the competing demands on those funds. I think the member opposite has made a very well argued case about the importance of democratic institutions and of letting the people see in fact how they work although I am not sure that the people in the United Kingdom are particularly impressed by what they see of the performance of the House of Commons, but I agree that it does not necessarily follow that we have to go down that route and I am glad that we are still in agreement that democracy continues alive after the First and Second Readings of the Gibraltar Development Corporation and that there has not been an attempt to include television and also televising the proceedings of the Board of the Gibraltar Development Corporation which is supposedly substituting the House of Assembly.

Mr Speaker proposed the question in the terms of the Hon the Chief Minister's amendment.

HON P C MONTEGRIFFO:

I do not mind speaking on both the amendment and on the original motion if I can do so, so that I do not have to get up on my feet again because the amendment does not fundamentally change the original motion. In welcoming both the comments made by the Leader of the Opposition and the Chief Minister, I think that one aspect that has not been actually addressed by either speaker which adds to the desirability of the proceedings being televised is that the complexities of issues which are sometimes involved, in fact more often than not usually involved in any matter of public interest results in the public not really being fully appraised of matters and the degree to which there is substance to various arguments only through reports that are made to the media. The media does the best job it can but when you have only ten minutes of news on GBC and two or three pages of report in our daily newspaper, what tends to happen is that there is an artificial summary of what has occurred and the real complexity of argument which is what brings matters to life are lost. Radio has gone some way towards ameliorating the position but the televising of the proceedings would bring that more to light and would actually serve to highlight much more accurately the different positions taken by the politicians in the House and the respective views that each are expressing. So I welcome the amendment to the original motion and obviously I will be voting in favour.

HON LT-COL E M BRITTO:

Mr Speaker, I will also be speaking both on the amendment and on the main motion, and I will start off by confirming that we have no difficulty with the amendment as proposed by the Chief Minister and therefore we will be supporting it from this side of the House. I would like to add one or two points to what has already been said and that is that I think one has to look also at the aspect of whether television or televising of the proceedings of this House is necessary as seen through the eyes of the man in the street. Do people outside want it? Does it warrant the cost? Is there enough interest for it to go ahead? I think it is relevant to look at what has happened with radio, where interest is much more difficult to sustain, in the absence of moving images and pictures and yet it is obvious from peoples comments that quite a number listen to these transmissions and follow them much more closely than one would have thought and there is no doubt that with a change to television that interest would increase with the obvious

advantages that have already been expounded by my colleague the Leader of the Opposition and the value of educating members of the public in the democratic process. The other thing that one has to lay stress on, I think, in the sub-committee would be the question of costs. To my mind this is one of the crucial factors. Obviously it would be up to the sub-committee to make whatever recommendations they think necessary, based on the study that they make, but I think that one important principle that obviously may have to be followed is that the cost of transmitting these proceedings does not in itself become detrimental to the normal transmissions of GBC in the day to day viewing of the people of Gibraltar. I think it would not be a good thing if that were to happen. Thirdly the technical aspects have not been covered and obviously it is only GBC who will be able to advise the Committee on what these are, but one would have thought that the difficulties, once the costs are covered, on the technical side would not be unsurmountable. I would like to reiterate what the Leader of the Opposition has said on coverage that not everything obviously should be covered only selective bits of the proceedings but I think this raises the important question "what will be selected"? This is something that has already caused controversy on at least one occasion in the broadcasting over radio. What should be selected and obviously some editing of material will be required. Obviously agreement on the editing procedures would be of much more importance and have to be discussed in detail. I would just like to support, in principle, to avoid any doubt that I think the televising of proceedings would be a good idea Mr Speaker.

HON K B ANTHONY:

Mr Speaker, I feel I am almost preaching to the converted when for once we have a consensus of opinion and agreement on both sides of the House. A couple of points that I would like to raise that have not been mentioned by any Honourable Member so far. As most of you know I have many years experience in radio and television and therefore I am going to refer to this. There are three aspects of television that are always in the mind of broadcasters. "Entertainment, Education and Information. Now entertainment is out, but information and education are two vital aspects that, I think, televising of this House should stress. When sound broadcasting began we did make a major step forward in bringing the proceedings of this House to the eyes of the public, to the ears of the public and prior to that I suppose members will recall, you either had to sit in the public gallery to find out what was happening or tune in that night on television and sometimes sit through what the Honourable Mr Montegriffo has said a ten minute report and sometimes a thirty or even a forty minute report read out by a rather

irate newsreader, as I know from bitter experience. Alternatively you could buy the next days newspaper and read a summary of what has happened, sometimes in the newspaper of the day after next, so there was never the full topicality that radio brought to this House, but with sound broadcasting of course we made a major step forward. You could listen in your home, in your car or in the office and it was a big step forward but there was still problems, Mr Speaker, because we all like to think that everybody can identify us by our voices instantly, that is not the case because even if we have downstairs in the little cubicle under the stairs a broadcaster who identifies each speaker when he stands up because we are not as well known as that. But at least with sound radio we could hear how our representatives when legislating on their behalf. Mr Speaker, you may remember a few years ago that GBC commissioned a survey on listening and viewing habits in our community. But I have no intention of going into details on this because most members have seen and analysed it. But there is one important aspect that did come out in that poll and that was that when television transmissions began radio listening dropped way down and this meant, as far as we could see, that the moving picture wins everytime over a voice out of a little tin box. It is as simple as that and I am convinced that viewing would take precedence over listening if this House ever does televise the proceedings. I am not suggesting that we should drop sound broadcasting because we cannot have television in cars and people in cars may want to listen to their radio. It should be supplementary to sound broadcasting, not a substitute. The Honourable Leader of the Opposition, my colleague Mr Canepa, has mentioned the House of Commons and I fully agree with what he has said. Every elected member of this House has been on television at one time, most of us have been on more than once and I see no risk of any member of this House playing to the gallery by leaping to the middle of the floor and brandishing the mace or any of those silly behaviours happening on occasions in the House of Commons. The rules in the present experiment in the House of Commons they have very clever safeguards. Basically there are only four shots they can take, closeups of individual speakers, a general shot of the gallery of the House and if all else fails a picture of the Speaker. The public gallery is never in view and I would not envisage that and, I think if we keep in mind that these basic rules are working with great success in Westminster perhaps the Select Committee may be able to come round to agreeing on a similar pattern for our House of Assembly. Of course we have to go into details and I am delighted that the setting up of the sub-committee because that means that it will not be rushed into or defeated by any individual in this House. It is too important, I believe, and you need a sub-committee to go into all aspects. We

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need to get the views of the professional broadcasters, we need to go into the finances and doubts have been expressed about the finances, Mr Speaker, but I think this is a possibly and the biggest problem that we will face when we get down to the nuts and bolts of televising the proceedings of this House. Although I am one of those people who believe that television is a vital step forward in bringing the proceedings of this House, not only to the public but also in the other field of education. We have all seen in this House classes of school children coming into the public gallery to see democracy in action and I am convinced also that if it were to be televised, many more school children could watch our proceedings in their classrooms and see what democracy is all about. So in all aspects Mr Speaker I am delighted that this motion is going to get accepted by both sides of the House and I fully support the motion in every way. Thank you.

HON J C PEREZ:

Mr Speaker, I think I am not going to pre-empt what the sub-committee might decide in looking at all the details, just to say that I hope that this is not a roundabout way of getting our resident president back on the screens because that would mean that it would not only be education and information, as the Honourable member has said, but also entertainment.

MR SPEAKER:

If there are no other contributors to the amendment I will ask on the proposer of the amendment to reply.

HON CHIEF MINISTER:

I do not think I need to say anything else on the amendment, Mr Speaker.

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

MR SPEAKER:

The motion now reads as follows:

"This House considers, in principle, that the proceedings of the House should be televised and that all aspects of the matter should be considered by a sub-committee set up for the purpose". If there are no other contributors I will ask on the proposer to reply.

HON A J CANEPA:

Thank you Mr Speaker. Obviously, Mr Speaker, I am very pleased and delighted at the positive response that there has been to this motion from both sides of the House. We are delighted to have the opportunity to participate in a sub-committee to consider the practicalities of the matter. I think that this augurs well for the future, Mr Speaker, provided the financial considerations are reasonable. Perhaps we might be able to levy a tax on beauticians who I think would make a roaring trade if the proceedings were to be televised.

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

The House recessed at 11.40 am.

The House resumed at 2.30 pm.

HON P C MONTEGRIFFO:

Mr Speaker, I have the honour to move a motion in the following terms

"This House considers that present employment legislation regulating employees' rights and including provisions in respect of pensions and redundancies, is antiquated and inadequate and requires reform as a matter of urgency".

Mr Speaker, in presenting this motion I do so with the conviction that the House as a whole would be able to accept it almost axiomatically that there is a need to review the basis of employment law in Gibraltar bearing in mind, simply that the last time any comprehensive review was done, certainly not within my recollection and that, by a simple perusal of the present framework of the law would show that there is in fact a lot of scope for updating the basis in which people take employment. Aspects of employment in areas like pensions in the public sector, for example and which we were discussing in this House yesterday, also derive from an antiquated Ordinance. In fact there was talk about antiquated provisions in that specific area of what is in broad terms the employment policy and there is a need, I hope, to closely look at Employment Legislation. Not in my view because of any special privileges which employees should now enjoy which they did not enjoy ten years ago, but because of the particular circumstances which we are now going to face in Gibraltar and which are different to those that applied before. It is clear from the way that we are moving, Mr Speaker, that the trend is towards a reduced public sector and towards a greater private sector economy and that move implies, in a sense unfortunately, loss of protection of the very enhanced benefits of the public sector employment. A lot of protection and which obviously people

do not like to lose something that they already have but which is unfortunately unavoidable because in a modern world you have to earn every benefit that you receive and therefore in Gibraltar's case as a result of our artificial economy during the siege years we were able to sustain or tolerate a level of benefits in the public sector which helped almost to keep the social fabric of Gibraltar together in very difficult times. Now bearing in mind that we are all now resolved to make sure that we all pay our way, not just as a community but as individuals, I think we must be resolved to ensure that whilst lamenting, in a historic sense, the loss of the protection of the public sector we should try to replace in the private sector that protection which people would be able to earn and defend for themselves in a much more modern context. The previous position was based very much, I think, and other members of this House who have much more direct knowledge than me in this respect, largely through dealing with the bargaining positions of the workers who obtained many of these advantages which were possibly the appropriate method of resolving matters at the time but which, I think, bearing in mind that the private sector would be extremely diversified would be the wrong method now. Because huge blocks of workers that could collectively exercise sufficient bargaining power to have a big impact on specific areas would be a thing of the past and therefore thought should be given to actually enhancing, in a legislative framework through legislation, the rights which employees could look to as minimum guarantees rather than having to rely simply on negotiations. The negotiations could improve on a position as a basic floor protection but it would not be almost exclusively the sole avenue that they would have in order to progress matters. I think also, Mr Speaker, in moving towards a more private sector orientated economy we have also to consider the wage structure which we have inherited from years past and which is basically a North European wage structure and which we must match in competitiveness and in productivity. This is the minimum we must aspire because of the standards set by the Japanese and the Americans. In seeking to make demands from our employees, in that respect, and I am the first to seek to make that demand and more because I am a strong believer in people standing on their own two feet and earning their way and not having a single passenger in an organisation but in making that demand, I think, we have to stop and say that although we are possibly in that transition period we must make sure that the same level of benefits and protection is potentially in our Gibraltar legislation to equate to that North European standard. We must, Mr Speaker ensure that we are not making an unfair demand on people and have the same standards in our laws to what there is in the North of Europe. Let us make those demands but let us at the same time provide a modern framework which allows us to say "as long as you live up to those demands, these are the sort of benefits and this is the sort of structure of employment legislation which we feel you should be involved



in". There has been some progress in this respect, Mr Speaker, through the activities of the Conditions of Employment Board and the liaison that takes place within that body between representatives of Trade and the Trade Unions. But I would suggest that the Conditions of Employment Board whilst being a useful forum to build on, it by necessity has a piecemeal approach to things. It will deal with one particular aspect, like for example, it dealt with the question of redundancy for workers in the Retail Trade and for shop assistants in the Retail Trade whereby they came to an arrangement on redundancy with the Chamber of Commerce. Whilst it has a useful role to play, I think, of necessity because of its composition and because it can only meet every now and then it means that things are advanced, as I say, piecemeal without stopping and taking stock of the whole situation and start on a clean slate. That our present legislation is "OK", as I say, I hope will be taken very much as read and certainly the sources of our Employment Ordinances specifically related to in the Ordinance itself. Reference is made to the original sources, they were talking about the Truck Act of 1881, the Employment of Women's Persons Act of 1920 and we have an Equal Pay Act of 1970 and admittedly there has been updating of some elements of the Employment Legislation as a result of a European Community Directive and as a result of some law passed in this session of the House of Assembly over the last two years on Sex Discrimination and such like. But basically our essential framework is an archaic framework which is quite out of step with most of the provisions that you would find in North European countries. Certainly the United Kingdom position, which members may be more acquainted with, is that under the legislation in place, before Mrs Thatcher's ascendency to power in 1979, was considerably more advanced, in certain areas of employment protection, than in Gibraltar and despite a decade of Thatcherism certain elements of the employment legislation in the United Kingdom still remain favourable over and above the position which technically in law we have here. The reason why Gibraltar has not suffered from this archaic system is that as a result of the negotiating power of the unions there have been improved conditions on a bilateral basis between employee and employer. But not because the law has actually demanded a certain type of treatment and what I am saying is that I think in a modern community things should be done as a result of proper legislation and the bargaining side of things should be an addition of basic floor protection but not something that is required because the law is so completely archaic and out of step. So, for example, in the context of redundancy which I will deal with first. We have in Gibraltar as it is well known no legal right to any redundancy payment. So whereas workers have, in certain sectors, protection because there are agreements with employers whereby redundancy payments will be made, basically in the Public Sector, increasingly as we move towards a more Private Sector orientated economy that area of protection is not there in the Private Sector and we have had many cases, as my Honourable the Minister opposite will know of, for example, in the Construction Sector where until recently there was

no protection. The Trade Union Movement had to actually establish a redundancy fund. There is nothing there if a firm goes bankrupt. There is no fund for redundancy and there is no protection for them at all. The Construction Sector perhaps has been the one that has hit the news more often because of the nature of construction which means that if there is a lot of construction a lot of people are employed. Then you enter a decline in construction and everybody have to be dismissed for say three years and then development increases and work starts again. However, it is not an isolated industry at all, it is just the one that happens to have more impact because of numbers. There are other situations in the Private Sector that I certainly have come across where people can only argue compensation in terms of what they are entitled to by way of notice. You are given notice that your job is terminating, you have a maximum, I believe, of thirteen weeks which in fact the Ordinance allows you payment in lieu of notice but there is not a right statutorily to redundancy. If you are lucky enough to be with an employer with whom there has been an agreement that there should be redundancy payments you are fine, but that is not the case as protected by law. In the UK as far back as 1965, there was in fact a Redundancy Fund established which meant that employers had to pay into the Redundancy Fund which reimbursed payments made by employers when people were made redundant. It was not a Fund actually which automatically made payments to people when they became redundant, but it served as a reimbursement mechanism to employers who had an obligation to pay people when redundancies occurred. Mrs Thatcher has done away with large elements of that, I should point out to the House, but I am sure that we would want to go down that same route. She has still retained a Redundancy Fund which will cover problems in bankruptcy and I am especially concerned with that area. Because firms just go bust and there is not enough even to pay Government in PAYE or Social Security or even rent to the landlord. In these cases workers tend to have a very serious problem. One thing we could perhaps look at here, as a specific suggestion, is some form of Redundancy Fund to cater for bankruptcy or insolvency situations where there is simply nothing left in the kitty for people to get an element of compensation to give them a breathing space before they can find somewhere else to earn their living. The second area which is also one of concern is the area of pensions. There are not an insignificant number of people in the Private Sector, Mr Speaker, who in fact are working without any pension provisions at all. Again through efforts made in bilateral negotiations between employers and unions, many employers have pension schemes in place and the bigger the employer the greater the demand from the employees and the more likely that a pension scheme is introduced. But there are still quite a number of people in employment in the Private Sector

that do not have that element of protection which we should in fact be looking towards encouraging further and to encouraging the provision of pensions further. True at this stage we have an element of incentive anyway so that people in the Private Sector do take up pensions privately. Basically contributions made by both employers and employees to a Pension Scheme are tax deductible and that provides an incentive but just as in the case of Home-ownership where we have recognised peculiar and significant special situations in Gibraltar over and above what benefits the UK have considered for Home-ownership, Midas in the UK, which is interest relief on mortgages, Gibraltar must the same as in Home-ownership because of the peculiar position we also need a special set of incentives to bring us up to full European standards in the area of Pension Schemes. I think thought ought to be given to making a real effort to say what can we do to really booster incentives so that every person working for a specific period of time within the Private Sector could be induced to enter Pension Schemes which would protect their position at a later stage. I do not know to what extent, Mr Speaker, but it may be a convenient time and we do not know to what extent this is relevant bearing in mind that the Government itself is involved in a fairly major operation on the restructuring of State Pension Benefits, whether it would not be useful at this stage to try and marry both the concept of Private Pensions provisions and State Pension provision because at the end of the day what we are all concerned about is that people should get to the age of sixty or sixty five or whatever, adequate financial protection for themselves and for their dependents. In the UK again as the Government would know, the State Earnings Pension Scheme allows for contracting out whereby employees can actually say "Well I will contract out of the State Scheme and simply make private pension arrangements". That might have implications for us in Gibraltar for we may need a funding for that and that might be the wrong route for us to go down. What I am trying to say is that that is an example of the ability to be able to link the two systems, not marry them, that is the wrong word, but to link them, so that there is an element of complimentary provision. Also bearing in mind that we are involved, as a community, and the Government is specifically looking at the whole question of State Pensions it might not be a bad idea specifically to say "What can we do to improve Pension Schemes in the Private Sector to give an element of greater incentive". I am convinced that there are some things that could be done eg further tax rebates in an attempt to try and induce people to go down this route. It would also do something else, Sir, not tax cuts but rather tax rationalisation and that if Homeownership is one area in which the Government is prepared to reduce the tax burden perhaps pensions could be the subject of special equivalent treatment without needing to touch anything else. It would be another example of

a specific area of social policy where there could be tax incentives. The Ordinance itself being archaic also does not address the whole series of points which I am not going to elaborate on because they would be very much too extensive but which by way of example I will cite a few. The provisions, for example, at present for compensation as a result of complaints taken to the Industrial Tribunal are very low. If you are unfairly dismissed and you go to the Industrial Tribunal, the maximum, I understand, that the Tribunal can actually give you in compensation is £3,125 at least that is my understanding. You can go to court and get more money but that involves the employee in expense, time and effort of going through that process. Also in certain areas like, for example, offences that are committed under the Ordinance, the penalties which an employer suffers for committing certain offences are very very low. To give you an example there is a section in the Ordinance dealing with a particular responsibility that employers have to give information to employees about their terms of employment etc and the offence, if committed, is subject simply to a fine of £10. I mean it is a very very archaic form of enforcement provision. Is £10 supposed to be a deterrent? Well, Mr Speaker, it is not going to deter very many people although technically an offence has been committed. There is a need to bring these penalties into line and say "right we are going to have an offence and let us back it up with a penalty which is equivalent". For example, the Government now intends to introduce, or so we were told, a written contract provision for every single person in employment, I think, that is the intention. We would end up with Control of Employment through that type of route which would be built on the legislation that there was. Now I do not know yet what the provisions would be in respect of lack of enforcement or lack of compliance because those details have not been yet made available, but clearly to say that if you do not have a written Contract of Employment the penalty is going to be £10 then it would be a farce. I am sure that the Government will say "well it is going to be a more serious penalty which will demonstrate the seriousness of the penalty which has been committed". There are also possibilities in many areas which at present, again, are outside our law but which we should be seeking to encourage. The idea of encouraging women to take a greater role in our workforce which has been something which again the Government has talked of on various occasions, as something which they support as a matter of policy. This also requires, I think, special incentives in terms of child care provision to make the employment of women more feasible. In Gibraltar we have been lucky because since we have a very good family network people have been able to leave young children either with parents or family and there is also a number of nurseries that recourse can be had to. But it is very much of a topic now in the UK itself that there should be a move towards the provision of much more what they call "Creches" in the UK, Creche facilities for

women working and in fact many of the large employers in the UK do provide creches so that women can actually leave children in care whilst they go to work. Now whilst not necessarily saying that we should move towards that, there was an interesting article, Mr Speaker, in the Sunday Times only last Sunday the 11th February, which was quite relevant to what I am going to say now entitled "Child Care is still the barrier for women", and it cites a report that has just been published in the United Kingdom. It has been headed by Sir Geoffrey Howe's wife and the conclusion, in the article itself, is that the report outlines the difficulty of actually providing care for the children and at the same time seeking employment but what the article at the end concludes is that if one person has the power to do something it is the Chancellor of the Exchequer himself, in that by actually again providing an element even of tax rebate or relief for payments made to child care for child care provision that that would really help to mitigate the cost involved in having people take care of children whilst they go out to work. The conclusion really is if you get people to take care of children that if such payments in respect of child care provision could be the subject for the tax benefit or the tax deduction which would encourage women to enter into such arrangements and the costs would be mitigated. It will be for a good social and economic purpose, it would not directly involve the Government in any outlay, not directly, only lack of some income coming in and certainly it would not involve the Government in setting up creches or nurseries or such type of institutions. Mr Speaker, the point that I wanted to specifically refer to I have covered already and I have not suggested in the motion how I propose, or how I would suggest that a review of such policy be effected, I think that it is a matter of priority but I do not actually say the machinery which should be used. We have had Landlord and Tenant reviews which were the subject of Select Committees in the past and the Government sometimes, I know, is not so keen on Select Committees because it may be a cumbersome procedure but clearly there is a necessity of an employment review and I think you should have a situation whereby you should try to involve as many people as possible in giving opinions and in formulating a policy which will be acceptable to all. For those reasons, Mr Speaker, I commend the motion to the House, thank you.

Mr Speaker proposed the question in the terms of the Hon P C Montegriffo's motion.

HON M A FEETHAM:

Mr Speaker, I intend to reply on behalf of the Government to whatever remarks the Opposition has to say.

MR SPEAKER:

It is very much in the hands of the other Members of the House.

HON A J CANEPA:

I would like to hear what the Government has to say, Mr Speaker.

HON M A FEETHAM:

Fine, I have no qualms about it. If any Member opposite were going to ask for any information or make any enquiries perhaps they could give way. I intend, Mr Speaker, to straight away introduce an amendment to the Honourable Member's motion and then just speak on the amendment itself. This will ensure that business of the House is got on a little bit quicker if anything. So what I am proposing is that immediately after the words "This House" remove the rest of the motion and substitute it with the words:-  
"considers that there is a need to review the law regulating employees rights in the private sector, particularly with reference to occupational pensions and redundancy terms and that this review should be undertaken in consultation with representatives on both sides of industry".

MR SPEAKER:

It would I think help things if it were possible for Members to agree to talk at the same time to the original motion and the amendment, with of course the proposer of the amendment having the last say on the amendment. The proposer of the original motion, even if the amendment is carried, having the last word on his motion. We shall then take a vote.

HON M A FEETHAM:

Mr Speaker, I awaited with great interest to listen to the Honourable Member defending his motion and he started off by talking about conviction, something which I entirely agree with him, I doubt whether there is anybody in this Chamber today that does not believe in the conviction that people ought to enjoy a reasonable standard of living in Gibraltar because nobody would think otherwise. But then he went on to a philosophical approach to the way he sees events developing in Gibraltar and I have to take issue with that because we either have one policy or indeed we have another. We cannot have everything in a generalised term without actually pointing out what the real issues are about. We are living in a free market situation and in a free market situation, I put it to the member opposite, that there is not a better system of achieving good conditions of work and consequently of employment than by a non-interventionist policy and allowing the Unions and the Employers to get on with the job that they are best equipped at doing and the employers and the unions without Government intervention are the best at reaching collective agreements. The moment you start with undue interference by the law, then you start coming across problems that do not assist industrial relations. When we talk about Margaret Thatcher in the UK, Mr Speaker, what has been happening in recent years are perfect examples of legal intervention. So I am not going into great details about the philosophy certainly not to the extent that the Member opposite has done. I want to do is simply to explain in a proper perspective the issue of the situation existing in Gibraltar for the benefit of the Member opposite. The realities are that

the motion as originally worded by the member opposite is in fact inaccurate because it would have been more accurate to say that there was no legislation in respect of pensions and redundancies and that there are no provisions in law requiring employers to provide occupational pensions or redundancies. And in fact if we look at the scenario over the years and certainly in the more recent years, since the early and the middle seventies, the argument that has been put both to Government and to the Unions by employers has been that to impose across the board such pieces of legislation would do undue harm to small businesses. However in order to be able to analyse even further to what extent and to what businesses we are actually relating this problem to then we have to analyse the complete picture as the situation stands in Gibraltar today. So what is the picture that we have in Gibraltar today, for the benefit of the member opposite. There are important collective agreements already in existence and have been in existence in the Private Sector for many years between all the main employers and the Transport and General Workers Union and such matters as outlined by the member opposite are catered for in these agreements. Insofar as the Public Sector is concerned, the legislation that the member or the type of legal instrument that the member has referred to in terms of collective agreements exist in the major sectors at the moment. So when we bring the situation to the nitty gritty and not to the generalising situation that require to be looked at, we see that we are primarily looking at areas in the Private Sector which are nonunionised. Where employees in the majority of cases are employed in small family type businesses that need certain levels of activity to keep them going. Anyone that can find an absolute concrete solution to this type of problem has to face the harsh realities of the economic circumstances that that particular business is faced with in many respects and one of the issues that the member opposite took umbrage with the Government was when I brought a Bill to the House as a result of small businesses making representations to the Government that they needed protection from unfair competition from across the way and we wanted to set up a Register to ensure that that came about and the members said that that was one of the situations where the Government were out to control businesses and were out to do undue harm to commerce. Yet today the Hon. Member stands there and talks in general terms without knowing what he is talking about and is precisely arguing a case which could do undue harm to small businesses. As a Government we have a social obligation in looking at these things and in providing the instrument to ensure, as far as it is possible, in an imperfect world of protecting people and what we must aim for is in fact a situation where things like the introduction of perhaps a Wages Board which

benefits, as I think he was trying to say, he has to remember that at the end of the day the money would have to come from the small businesses. At the end of the day what I am trying to say is certainly far more fundamental and what I have done is in fact, to show the people that what we are talking about in Gibraltar in the true sense of the word are indeed not covered anywhere else in the sort of situation and conditions that the Hon Member is arguing about although of course there is an obligation to look and improve the situation and that is what Government and that is what negotiations are all about. Therefore the amended motion that I have proposed takes that into account and what we are saying is that in fact the best way forward to proceed in bringing about something which is fair and obtainable and to do it in consultation, as it always should be, with employers and the unions. I therefore, Mr Speaker, propose that my amended motion should be discussed.

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

HON DR R G VALARINO:

Mr Speaker, the official Opposition will vote in favour of the amendment. I think that the Hon Mr Feetham has clearly outlined the need for such an amendment and reduced the previous original motion to its proper perspective and I agree with 90% of what he has said. As far as the original motion moved by the Honourable Mr Peter Monegriffo is concerned, this deals specifically with present employment legislation in respect of pensions and gratuities. With the emphasis that it is outdated and requires reform as a matter of urgency. Now Mr Speaker, there is no doubt in my mind that it is desirable that any area of present employment legislation should be brought up to date. There is also several specific EEC Directives on this matter and these Directives will have to be adhered to in due course. This however is a highly complex issue and great care must be given to any new regulations in order to ensure that both the interests of businesses and individuals are safeguarded. The Unions must be consulted and their views sought as well as that of the Chamber of Commerce. An important part in any such future legislation is to ensure that the effect on small traders is minimised to a degree that the trader does not find himself in dire straits in order to comply with a new Directive. Because this together with the many Municipal and other bills that he has to pay could affect his business. One must also remember that increases of this kind for whatever reason finish up as an increase in the price of the commodity. There are two points here that I agree with the Hon Member sitting on the left. One is that proposals could be introduced so

may be something that in the UK became out of touch and maybe we can look at something like this. But certainly not in the tone of the motion that the member has brought to the House. The Hon Member's motion was instigated because the Transport and Workers Union were requesting a move to the Government on the lines of the amended motion that I put to the House. The Hon Member has decided that it is a good thing now to move a motion and give us an exposition of his labour policies and what they are if he were to take Government next time. But, Mr Speaker, it is not a priority issue, it is not a high priority issue and it is not correct to say that existing legislation needs urgent action and so the motion is inaccurate and it is in effect something which at present should not be hurried, particularly at this critical time in the history of Gibraltar when we need to encourage development in the Private Sector. Why do we need to do that, Mr Speaker? Because as the member opposite is fully aware we need to replace jobs which are going to be lost in the MOD. Some of the jobs that we are going to lose in the MOD will fill a vacuum in the new economy of Gibraltar in the form of small business being set up as we envisage and as we will be encouraging the economy to proceed and to build upon. What we cannot do is in fact not to proceed with caution and put undue burden on people at the time when they start businesses. And then of course in that sort of situation, as I said at the beginning, we have to look and compare with what is happening elsewhere. The Honourable Member opposite talked about the Northern European countries and I would say let us look and equate our standards to what is happening inside the European Community of which we are a Member and it is the obligation of the Government and of this House to achieve the standards of living of other European nationals in every respect, including in labour laws, and which is very much something that we in the Government take to heart. Let me tell the Honourable member opposite that in many cases in the European Community today there exist Regulations which stipulate minimum conditions attached to minimum sizes of businesses and in fact if we look at the redundancy terms which exists in the community, we see that the agreements that exist in Gibraltar are far superior to what the EEC labour laws requires us to adhere to in terms of numbers and in terms of the notice that has to be given and the size of the number of people that have to be notified when the redundancy position is declared. So on the redundancy situation we have better conditions than what the EEC law imposes on Gibraltar. It is also a fact indeed that in many European Member States small newly set up businesses, or small business, are exempted from complying even with these minimum conditions where these would create an unfair burden or a disservative to the business or to the formation of the business. So therefore, Mr Speaker, if what the Honourable Member opposite is suggesting is that we improve employees

that specifically small traders will be able to provide pensions for their employees and as far as Child Care provisions are concerned in order that the mother is able to go to work, this is also an area which could be looked at. I must say now that we have been talking about small traders, but large companies are in a much happier position. These firms are able to charge for their services without much quibble from the clients and ought to be in the privileged position of providing and paying for certain matters such as the large part of a pension for an employee. Redundancies obviously fall under another category. There is, as I have said before, an EEC Directive in this matter and in my time as Minister for Labour and Social Security, I remember that steps had already been taken and a paper had been prepared for discussion and implementation on this Directive. If I remember rightly, the paper when we left office was already with the Legislation Committee and maybe it could well be that Government are now dealing with this matter in that Committee. Another point which the original motion mentions is the matter of priority. I fail to understand why this sentence should have been included in this motion when there are many more aspects of Gibraltar life dealing with a large number of issues that must take priority over the updating of the present Employment Legislation in respect of redundancies and pensions. I do not want to say a great deal more, Mr Speaker but there is obviously an obligation to improve the law in this respect and I must say that although, in principle, the updating of any law is welcomed I however honestly feel that the mover of the motion appears not to have given sufficient thought to the full implications of such legislation. But Mr Feetham has explained this clearly and requires consultation with representatives of both sides of industry. Thank you, Sir.

MR SPEAKER:

If there is no other contributor I will ask on the mover of the amendment to reply.

HON M A FEETHAM:

Mr Speaker, I do not think I have anything else to add.

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

HON P C MONTEGRIFFO:

Mr Speaker, it is not that I am going to find myself in a fourteen to one position because half a step is better than no step. Although I am a little puzzled because all



the anger that Mr Feetham came up with, the anger of implying that I do not know what I am talking about and then he comes up with an amendment Mr Speaker. And frankly when I look at it as I have said it is half a step towards a step, but it is more than half a step and the Honourable Mr Valarino has talked about the fact that I want to mandatorily have pensions for the people in the Private Sector. I wonder whether the motion has been properly read. The motion states "This House considers present legislation regulating employers rights including provisions for pensions and redundancies is antiquated and inadequate". And that "it requires reform." I have not said how it requires reform or how it does not require reform or anything. I have indicated very clearly the line which I want to take but in fact I have not mentioned even once the fact that I am talking about mandatory provisions for pensions. I have in fact made it very clear throughout and I gave various examples of methods through tax incentives of encouraging employers in the various areas about redundancies and pensions to actually provide those rights. It is completely absurd what both sides have said about this. It is complete and utter distortion and, I think, that maybe the members opposite are embarrassed that a motion of this type should have been brought and they have to come up with an amendment because they are supposedly the sole defenders of employees and employees rights. But Mr Feetham's amendment is, and I ask the man listening to us, the people listening to us whether there is a completely different perspective to this motion. His amendment said "That this House considers there is a need to review the law relating to employees rights" which implicitly involves the fact that it is outdated otherwise there would be no need to review. You do not review when it is alright. In the "Private Sector" is the only new element particularly with reference to Occupational Pensions and Redundancy Terms and that this review should be done and taken in consultation with representatives from both sides of the industry. I, in fact, was the first to say that the review should encompass everybody including obviously those that represent both sides of industry. So what is this so called more extreme motion that has to be watered down. I am perfectly happy to accept this but the only thing this amendment does is two things. One it takes out the reference to "as a matter of urgency". I actually do think that it is a matter of urgency but that is a matter of judgement and the other thing it does is that it introduces the words "in the Private Sector", and I am happy with that because the malady is not the Public Sector. Because people employed in the public sector are alright. The people who might have a problem are the people in the Private Sector. So I am happy with that. Now I agree with Mr Feetham in one respect and that is that I do fundamentally oppose a view that he has expressed that we should let them get on with it ie Employers and Trade Unions and we should not

interfere. Well I do believe in that. I know Mrs Thatcher would, I know that most of those on the right wing would but that is a nineteenth century concept that went out a long time ago. I do not believe that the best thing is in fact that Employers and Trade Unions should get on with it and that is it. No I do not believe that. Like I do not believe that when you go to a shop that it should just be the purchaser and seller that just get on with it. I believe that you should have laws that says what the obligations of the seller are and we have laws that say what the rights of the purchaser are because that is what civilised western democracys of the twentieth century actually do. They equate bargaining powers and not just to leave it to the market place. I do not believe in the market place to that extent, and that should be on the record, but if the Minister does then the only thing that happens is that they change completely from presumably their trade union days when we had a history of him, yesterday evening on television talking about a completely different Mr Feetham. I would have thought Mr Feetham who would have gone to interfere to the very hilt to protect workers and he did not say "workers you are on your own" then, I do not believe that. I actually believe that rather than employer and worker sort it out that there should be a law which provides, and there are lawyers of course. And thank God that there are and judges. Yes Mr Speaker, there are lawyers in their Party as well and Mr Feetham's two sons are studying to be lawyers. They are not studying to be anything else but I suppose they are also going to be comedians as well. Mr Speaker, I do not want to bring his children in but when there are cries of parasites then I have to answer. Mr Speaker the fact remains that I do fundamentally object to Mr Feetham on that point. I do not believe that in a modern society you just let people do what they want. I do believe in intervention and I do believe that there is room for setting a framework of protection in certain areas because if that was not the case there would be complete anarchy. In any case in theory, in conceptual terms, there is no difference between an employer and an employee coming to a deal as to a seller and a purchaser coming to an arrangement and that therefore just as we have said, there is a law that says you cannot sell toys to children unless it has certain stamps on them and we in the wisdom of this Chamber say that there is a law that applies to everybody. You do not leave it up to the parent to negotiate with the seller. This Chamber has a responsibility also to say whatever the terms of employment there are, certain things that every employee should have and I actually believe that as a matter of priority every employee, subject only to the problem we had in Gibraltar with immigrant workers, which is something that we have to be conscious of, every employee in the private sector should look forward to an Occupational Pension Scheme. I know people who are forty or forty-five years old who



are working in the Private Sector and who do not have a Pension Scheme. Now that might not be a priority for the Government but for these people who are getting older for them it is a priority. I am not going to quibble about whether there are ten things you have to do before you do the eleventh and that is why the motion recognises the need for a review this is the important aspect. I do not just say "let us wait till the Unions get round to thinking about people that do not want to get Unionised and then we will sort things out". I am sorry, I actually believe that even if there were no Trade Unions we as a legislature have the right and the duty to establish certain criteria for employment. Mr Feetham talked about the fact that the agreement in Gibraltar that we have with regard to redundancies are much better than even the minimum EEC standards. I am the first to accept that where there is an agreement it is a good agreement and that is why it is the Public Sector that I am not concerned about. There is no law on redundancies in Gibraltar and what I am saying is that the man who is protected is protected. Let us be happy for him, but for the man who is not protected that is of little consolation to be told that "do not worry boys, ninety percent of you are protected". "But what about the other ten percent that are not?". I am sorry but I do not think that is an argument. The fact remains that we have a need to look at it. As a matter of urgency, priority or whatever and I think it is something that we should look at especially as I am the first to say and also for the record.....

HON CHIEF MINISTER:

Mr Speaker, as far as Community Law is concerned, Gibraltar will comply with Community Law. We do not need a motion from the Hon Member to do that. So anything that we are doing here or anything that we do as a result of a review will be to set standards which are Gibraltarian standards and which are above the minimum required by Community Law. There are a number of areas where we are already above Community Law. We are already above Community Law in the National Minimum Wage, we are already above Community Law in requiring Redundancy Collective Agreement to apply with five employees whereas in the rest of the Community it is much higher and I can tell the member that this was done, in fact, when the previous Government was in office and when I suggested that because Gibraltar had so many small enterprises that if we use the minimum size in the community half the Private Sector would not be affected, so he is wrong in thinking we are below Community Law, we are not.

HON P C MONTEGRIFFO:

Mr Speaker, I am not saying that we are below Community Law, I am saying that notwithstanding that we are not to the point on redundancy, what we are below Community Law because is in that issue because we have nothing of Redundancy

and I do not know what the EEC says on Redundancy? I have not made the point. It has been the Honourable Mr Feetham who has said that there is EEC provision for Redundancies. That we are not above it, because the law is not above it. But certain agreements are above it. That I am prepared to accept and I welcome that. That is all I am saying.....

HON CHIEF MINISTER:

On a point of order, Mr Speaker.....

HON P C MONTEGRIFFO:

I have not given way.....

MR SPEAKER:

Order, order, order, a point of order, I must listen to the point of order.

HON P C MONTEGRIFFO:

I hope it is a point of order, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, the Honourable Member is saying that there is not a law in Gibraltar which is a Community Law on Collective Redundancy. If he looks in the Employment Protection Ordinance then he will find that there is such a law and that that law was introduced by the previous administration as a result of a Community Directive on Collective Redundancy provisions and that the law that was introduced in Gibraltar by the previous administration which was what the Community required us to do was changed in this Chamber because when I was sitting on the extreme left, where he now is, I suggested that in the case of Gibraltar if we simply apply the criteria of the Community of Collective Redundancies it would not apply to a very large percentage of Private Sector employment because the units of employment in Gibraltar were in fact smaller than the units of employment in Europe and the Government accepted that.....

HON P C MONTEGRIFFO:

Is the point of order over, Sir?

MR SPEAKER:

Order, order.

HON CHIEF MINISTER:

...and we legislated by introducing the triggering of redundancy provisions in Gibraltar and that Gibraltar's

law when they would not be triggered under Community Law anywhere else in the European Community. So, in fact, the Hon Member is incorrect.

MR SPEAKER:

What is the point of order that you want me to clear?

HON CHIEF MINISTER:

That the Hon Member is responsible for the accuracy of the statements that he is making in this House and he is making a statement in this House which happens to be incorrect and under the Standing Orders of this House I am bringing to his notice that he is incorrect because there is legislation which the House has passed which proves him to be wrong, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, he has not heard what I have said. Because there is no law which provides for payment in terms of redundancies. There is a law that says that there is a procedure where notification is given to the Director of Labour and Social Security when there is a certain type of redundancy situation which is a Collective Redundancy, but will the Chief Minister confirm that there is any law in Gibraltar which allows payments to be made and what the figures are because that is not the legal position at present. There is no redundancy payments guaranteed by law.

MR SPEAKER:

Do you want him to answer that?

HON P C MONTEGRIFFO:

Certainly, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, if he gives way I will inform him, since clearly he has not done his homework before bringing this motion to the House. In fact there is a situation where under the provisions for Collective Redundancies which in the case of Gibraltar applies where there are more than five employees affected, and this does not apply anywhere else in the world.....

HON A J CANEPA:

Thanks to an amendment moved by the present Speaker.

HON CHIEF MINISTER:

An amendment moved by me and graciously accepted by the last Speaker and where the situation is that employers in fact can be required under the law to pay...Yes they can and are paying constantly which the Hon Member would know if he had been a Branch Officer of the Union, and which he was not. Because whilst he was registering companies I was looking after the workers, Mr Speaker.

HON P C MONTEGRIFFO:

I look after individuals as well Mr Speaker.

HON CHIEF MINISTER:

Constantly Mr Speaker. I mean the Honourable member can of course introduce a Private Pension Scheme and a Redundancy Compensation Scheme in his own practice to set a good example instead of lecturing to the rest of us.....

MR SPEAKER:

Minister, order, order, when the Speaker stands up everybody shuts up. Order, I have not finished. I think the Chief has now finished his explanation and we must leave it and we we will carry on.

HON CHIEF MINISTER:

Mr Speaker, with respect I have not finished. The position is therefore Mr Speaker, that at the moment under Community Law people are required to give a situation of Collective Redundancy Advance Notice and in the event that there is a dismissal of an employee within the consultation period stipulated in the law, then in fact there is compensation paid and the legislation in Gibraltar treats that as a Redundancy Payment under the Income Tax Ordinance. That is to say, where in fact the compensation paid to an individual during the period of redundancy notice is paid in cash instead of in notice under Gibraltar's laws, again uniquely and nowhere else, the situation is that people get paid that amount of money free of tax. So in fact the Honourable member is wrong in saying, and I hope that he has accepted, what I have now told him where he can find it in our laws and put him right in that there is no reference in our law to compensating people for redundancies. Because there is and it is constantly being used, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, it is clear that the reference that there might be rather than in that there is clearly stated instead of

payment in lieu of notice or when there is a breach effectively by giving an employee dismissal notice then that redundancy under the Income Tax Law allows a payment to be deemed to be a Redundancy Payment for the treatment of tax. That is one thing. But one would then assume that if no dismissal takes place within the period of notification that the only thing that the employee has in that situation is a right to dismissal payment so to speak or payment in lieu of dismissal as opposed to any right per se to redundancy. That I am prepared to accept. But only within that situation and no other. Certainly not for example like in the United Kingdom where there is a specific right as a separate item to Redundancy Pay over and above any other benefit, simply as a result of one having lost one's job, that is a separate provision, a separate benefit that does exist in the UK. That would exist, as Mr Feetham has said, in many of the Collective Agreements that are negotiated in Gibraltar between employers and employees, at arms length, but just so that we get back to the main thrust of this Mr Speaker, it is clear that we are talking about different situations, because the Government feels I believe that we should have a closer look at what exactly should be the framework which regulates such employment. The amendment as it stands, Mr Speaker, only changes the original one to the extent that I have indicated and which I am going to accept with only one reservation which is not going to mean that I am going to object to it. The amendment actually calls for the review to take place in consultation with the representatives on both sides of industry. I agree with that but I hope it does not mean to the exclusion of others that have an interest and in particular to the exclusion of Members of this House whom I believe have a duty to express the view and also have a duty to pass the law if it were to come to giving effect to a more modern framework for the provision of such benefits. I am prepared to give way to the Minister if he can confirm that his reference to consultation to both sides of industry is not a reference excluding the role that Members on this side of the House could play. That it is only a reference which happens to be helpful by making clear that they would also be consulted. We would like certainly on this side of the House, I think and I speak for myself, to be consulted on the review because if we are talking about a framework which is a modern one for employment which this House should approve, then if we can come up with a consensus approach on this that surely would be desirable. I assume that the Minister would not object to that reasonable approach.

HON M A FEETHAM:

The answer, Mr Speaker, is no.

HON P C MONTEGRIFFO:

Mr Speaker, this is again an example of Government's attitude. I cannot understand why Government if it believes that there should be a review, to look at Pensions Schemes and at Redundancy situations and they know that it is a legitimate concern of myself and one assumes of other members of the House and they are willing to take advice from other people who have no elected representative voice in the community but only representative of this specific interest, it seems odd that they should not want to have members on this side involved. Now frankly I have the choice, Mr Speaker, I know the Government's arrogance goes to the extent where it no longer thinks it actually is useful to speak to Montegriffo and hear what he has to say. They cannot give me half an hour for my views on pensions. There is nothing that they can learn from me, it is true, Mr Perez, Mr Baldachino, Mr Mor and Mr Bossano know it all so all that you have to do is consult who they think they have to consult because the likes of myself are very limited in our abilities and in fact have nothing to contribute. I am in a dilemma as to whether I simply say no to the motion which would be a sad thing because it would defeat the purpose of the debate or of saying yes despite the fact that it is self defeating. Mr Speaker, my view is that at the end of the day whatever is done to improve the situation is for the good of those people who need it and if the Government in its infinite arrogance is prepared only to talk to people that it chooses without actually being prepared to listen to others when they have something to say then that is the price we pay for a Government that seems to have lost track of the need to consult the minority opinion. An opinion that is different in coming up with legislation which is going to have a social impact on the whole of Gibraltar. From the point of view of time, Mr Speaker, I do not think Mr Perez is busier than me.

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

HON A J CANEPA:

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

"This House:

- (1) Regrets that the Attorney-General has refused to make public his reasons for his decision to drop charges against the Spanish Customs Officers;
- (2) Considers that his remarks about sovereignty were in appropriate;
- (3) and believes that the announcement of this decision

only a few days after the disclosure of his initiative about cooperation on law and order, appears to be connected with this decision".

Mr Speaker, when I gave notice of this motion over a month ago it was described in certain sections of the media as a motion of censure. Without trying to do your job, Mr Speaker, which is to rule when necessary whether a motion is one of censure or not I can say for my part that it is not a motion of censure, it is not intended to be a motion of censure, nor is it a motion of no confidence in the Attorney General. And I say that because, in my view, it would be improper for me as a Member of the House, as an Elected Member of the House, to try to do that. If I were to do that I think that would be rightly interpreted as an attempt at interference on the part of Legislature with the Judiciary and with the procedures which are adopted in the Administration of Justice. As we said in the Press Release that we issued at the time, the first week in January, we do not question the Constitutional right which the Attorney General has to make decisions of this sort and indeed to take this specific decision. The matter of course in itself has got far wider political implications and that it has got these wider political implications became abundantly clear, if it was not clear right from the beginning because of the events of last summer. Events with which we are all familiar but I think it is important that I should make specific reference to the intervention of what the Chief Minister would call the Government of the Kingdom of Spain in instructing the men not to appear in Court after they had been granted bail because Madrid did not recognise the jurisdiction of the Gibraltar Courts. This of course is the matter that most immediately linked the whole issue to that to the Sovereignty question, because the Government in Madrid took this attitude because of their attitude to the question of British Sovereignty over Gibraltar. The jurisdiction of the Gibraltar Courts is an attribute of British Sovereignty over Gibraltar. Any country when it exercises sovereign rights, one of the attributes emanating from Sovereignty is the jurisdiction of its Courts. And then of course in the aftermath of these events we saw over a long period of time delays at the frontier, a very heightened level of activity on the part of the Spanish Customs helicopter all leading and contributing to the public in Gibraltar becoming incensed at the time, feeling very strongly about the matter last month and I would say that this feeling is still very sensitive even to this day about the whole issue, but in particular last month there was a public outcry when the decision to drop charges was announced and that is why we felt that questions that we had initially intended to ask here in the House should be followed up with a motion. The strength of feeling became

evident in a phone-in on GBC Radio on Friday 5 January and in the many letters that were written to and published in the Gibraltar Chronicle and what is perhaps rather more unusual, an unusually large number of letters in the Panorama. The Panorama does not tend to receive the amount of correspondence from the general public which the Chronicle does but on this occasion Panorama did apparently receive a very considerable number of letters and five or six of them were published and which showed varying degrees of annoyance on the part of the public. I think it was particularly unfortunate Mr Speaker that the timing of the decision to drop the charges came shortly after the Diario 16, published statements made by the Spanish diplomatic sources close to the - I forget whether on that occasion it was the Spanish Foreign Minister himself or diplomatic sources close to the Spanish Foreign Ministry, to the MFA in which threats were made against Gibraltar, and of course we have seen a continuation of these threats during the pursuing six weeks of so and only last week indications from Señor Ordoñez that Spain would be adopting a tough line against Gibraltar and introducing a much more stringent regime at the frontier. So this continues to incense people. Without trying to judge whether the Attorney General was right or wrong, I think the motion deals with three aspects of the matter. I will make my own view about the decision of the Attorney General clear in a moment. In the first place the Attorney General refused to make public his reasons for the decision that he took. I think that thereby he weakened his credibility in asserting that the decision was his and entirely his, and that he had not been influenced by anyone. I would find it very difficult to believe, Mr Speaker, that before taking that decision he did not clear it through the Foreign and Commonwealth Office, through the usual channels, ie the Deputy Governor or the Governor that I find very very difficult to believe. He made it clear that he did not tell the Chief Minister about his decision. Apparently the Chief Minister was indisposed and was not informed. I wonder whether his predecessor informed the Chief Minister when he took the decision to level charges in the first place or not, I just wonder. I think that in any case the second decision that of dropping charges which I have no doubt, as I say, unless the present Attorney General is departing from what I have known over many many years to be the established practise, I think at the very least that what he must have done was to inform the Deputy Governor, and quite honestly that he did not inform the Chief Minister, because the Chief Minister was indisposed, in my view is a poor excuse and I would have thought that the matter is so sensitive, was sensitive, that anyone could tell that it would become a sensitive public issue and remains a sensitive matter. It is so sensitive generally, regardless of the passage of time,

that if only as a matter of courtesy, I think, that the Chief Minister should have been informed. If I had been Chief Minister at the time I would certainly have expected to be told, even though the decision was for the Attorney General to make and if I had not been informed I would have been very annoyed about it. I would not have interfered in any way but I would have told him what my view was, as indeed I am going to do now, and that is that I do not think the decision is so much wrong in itself, but that because of the wider political implications which the matter acquired because of the strength in feeling in Gibraltar over the issue, because of the conclusion that people arrived at and at once saw this in the tone of the correspondence to the press, in the comments that were made in the phone-in that I have referred to, people rightly or wrongly, and unfortunately in my view, come to the conclusion that Britain and British ex-pats working in Gibraltar, do not care about Gibraltarians and their feelings and I think it is important that that should not be the case and that it should not even give the impression that it is the case. I think that the way that the public has read everything is, and seen from my point of view as well, this is a measure which smacks of appeasement when Spain is trying to bully us again. There are threats, longer delays at the frontier still, why? Because of their annoyance at the non-implementation of the Airport Agreement and notwithstanding the fact that the charges have been dropped, notwithstanding the fact that the Attorney General and I would not criticise him for his initiative on law and order not for one moment, notwithstanding that desire to cooperate in this sphere of law and order, nevertheless in spite of that the blandishments against Gibraltar continue to be an ever present feature of Spanish policy on the part of the Foreign Office towards Gibraltar. What does the Attorney General do against the background of all that? He ignores the political Government with whom he has to sit in the House, with whom he meets in Gibraltar Council. I am using rather strong language if I say that it appears that by not informing the Chief Minister he makes the Chief Minister look a fool in the process and that should not happen. It should not happen and it should not appear that there should be any possibility of that being the case because the office of Chief Minister is a very important one and whoever holds it has a dignity and that that dignity should be upheld at every stage. On Saturday 30 December, the Attorney General announced in the Gibraltar Chronicle, that he was taking an initiative on law and order. On Thursday 4 January, the Gibraltar Chronicle published the news that charges were being dropped against the Spanish Customs men. In between we had the New Year Public Holidays. The Chronicle in order to publish the story on the 4 January must have been informed by the Attorney General on Wednesday 3 January, so you have the initiative of law and order on Saturday

30 December. The 31 December is a Sunday, the 1st Monday is a Public Holiday, so in my view it could not have done during the working day in between.

MR SPEAKER:

Could I just stop the Leader of the Opposition just to clarify the dates. Is he saying that that is so or that he is assuming it to be so?

HON A J CANEPA:

I am assuming that in order for the Chronicle to carry the story on Thursday 4 January, they would need to have been appraised of this at least the day before ie before the Chronicle was put to bed as it were, and that must have been Wednesday 3 January. So on that time-scale there was only one working day in between, Tuesday 2, so a great deal of thinking must have gone on in between, before reaching the decision. I honestly, Mr Speaker, find it difficult to believe him when he says that the two matters are not linked and I think it is a pity in a way, from his own point of view, that he did not link the two matters because I think his case would be much stronger. If it is the interest of law and order, in the interest of crime prevention, in dealing with this horrendous problem of drug trafficking, with the problem of terrorism and so on, that there should be close cooperation between the authorities involved with the administration of justice and public order, law and order, both in Gibraltar and in Spain, and I for one would say that it is in the interests of all of us that that should be the case, then I think that building on that initiative the Attorney General could have presented the decision to drop charges in a far more positive manner because in logical pursuance of the first initiative, of that initiative, then he could have said, as a gesture of goodwill, it is logical that we should not continue to sour relations between Gibraltar and Spain on this issue and that we should wipe the slate clean and drop the charges and make a fresh start because there is going to be cooperation on this vital area. Not everyone might have agreed with him, but at least the point behind the decision, I think, would have been understood. So in trying to be economical with the truth, I think, the Attorney General perhaps initially inadvertently weakened his case. However he had an opportunity to have clarified matters later on, but all that he succeeded in doing was in weakening his case on the actual issue itself of the dropping of the charges and in weakening his case for the initiative that he had decided to take on law and order. Now the events of last summer and their aftermath particularly the Spanish Government itself bringing in the question of sovereignty, as I said have given the whole matter a political direction. It was no longer purely within

the domain of the Judiciary, whatever the Attorney-General is quoted as saying about sovereignty in the Chronicle and where he did say that he wanted it to show a willingness by Gibraltar to put to one side the question of sovereignty which is a political matter. As I said the Spanish Government by the instructions which they issued to the Spanish Customs men gave the whole thing a political slant and by the subsequent action taken and the whole aftermath of it all and the continuing aftermath of it all, it cannot be kept within the domain of the Judiciary, it is in the political arena and that is inevitable with virtually everything that concerns every facet of life in Gibraltar vis-a-vis our neighbours. The Attorney General stated in the Chronicle and we have heard since, quite recently, that he wrote letters to various newspapers in the United Kingdom, 'The Times' and 'The Independent' and that these letters were not published. Perhaps if they had been published, later comments that he makes about cooperation were perhaps when he talks again, quoting from the Gibraltar Chronicle, he was anxious to show that there was not a complete breakdown in cooperation with Spain, but when I read the Chronicle I was in doubt whether the degree of cooperation that he was referring to was limited totally to the question of law and order and/or whether it did not touch on other aspects political, economical what have you. Perhaps if the letters had been published by these newspapers that matter could have been clarified, but it was not clear to me then and it is not entirely clear to this day. Now why were not the letters published in The Times and in The Independent? I would say that if letters are received by editors of these newspapers, I know that the Area, I think in this morning's Chronicle there is a story about the Area publishing a letter, but the Area is a different kettle of fish altogether to The Times and to The Independent. I think the editor of these newspapers receiving a letter from the Chambers of the Attorney General would not touch it with a barge pole because they would be suspicious that there could be a legal wrangle involved and that they could get somehow involved in that wrangle. If those letters or similar letters had come from the Office of the Chief Minister, they would more likely have been published. I think that the mistake of the Attorney General in announcing his initiative and then also in announcing his decision to drop charges was that he was too forthcoming with the press and I would advise him not to be. I think as Attorney General he should not get himself involved in areas such as dealing with the press which can be a pitfall for anybody even for the most experienced politician, it can be a pitfall, and decisions of that nature I would suggest and I am not being patronising but talking from the experience of many many years should be the subject of a very carefully worded terse statement issued from the Office of the Attorney General and that is the end of the matter. No more statements, nothing further

said, because the more that you tell a newspaper, the more that the Attorney General would be opening himself up to misinterpretation, to other comments being made, to all sorts of things being said and the degree of misinterpretation increases directly with the length of the columns that are published in newspapers and that is something that I learned from observing over a number of years his predecessors in action. They had very very little to do with the media, they did not want to get involved and if they did, I imagine that it would be by way perhaps of an of the record briefing perhaps so that anything that was happening could be better understood by the media and any story coming out would be thereby more accurate. I would advise him for the future that he should be trite, terse and the statement should suffice. So, I think, that part of the problem was and has been that the Attorney General has mishandled the presentation of the matter and that is why I advise him to be more circumspect in future. There is always the danger of officials or official members of this House being misinterpreted in what they say. Moreso perhaps because they are not elected members and they are not directly answerable or accountable to the electorate and therefore there is a greater danger of misinterpretation and when you are dealing with matters about which the public in Gibraltar is very very sensitive, and has been for very long, then you have to be even more careful. To make statements of the nature that were made without clearance and support from the elected Government is to enter, to walk into a dangerous minefield, and the mines are going to explode and they have exploded. In a final analysis if the matters that you deal with you can also carry the members of the Opposition then it is always useful because they are not likely to do what is happening this afternoon. That is unlikely to happen. I think that in a way, Mr Speaker, it is unfortunate that matters developed the way that they did. I tried to be fair bearing in mind that there has been intense feelings on the matter in Gibraltar. I hope the Attorney General understands that and I hope he realises that we, as elected members of the House, particularly when you are in Opposition have more time to do that and part of the job of the Opposition is to talk to people. We have more time than Government ministers whose work involves a lot of time spent within four walls at meetings, etc. We have more time to walk around and to talk to people and I hope he believes me when I say that we have a duty to reflect the views of the people that we represent and in Gibraltar, matters that touch Spain we are very very sensitive and we are sensitive not because we do anything wrong but because all we want is to be allowed to lead our lives in peace. We are sensitive about the matter because they will not leave us alone and hence that is why I feel bound to bring this motion to the House. Mr Speaker, I commend the motion to the House.



Mr Speaker then proposed the question in the terms of the motion moved by the Hon the Leader of the Opposition.

HON ATTORNEY-GENERAL:

Mr Speaker, I have listened very carefully as I am sure all of us have to what the Honourable the Leader of the Opposition has said. I have also read and I am sure we all have seen the various letters which have been written in the press about the subject matter to which this motion relates. The various editorial comments which have appeared in certain newspapers and the amount and degree of assumptions. To a certain extent the Honourable Mover of this motion concedes that he has made assumptions and I have read also that there are opinions which have been expressed and the conjecture which has crept into the subject matter contained in the motion proposed by the Honourable Leader of the Opposition. But Mr Speaker, what I ask this House to do is to just pause for a second or two and step back and consider objectively what the reality of the situation is. Now Mr Speaker, the Honourable Mr Canepa has suggested that I am departing from established practice and he has compared the decisions or the manner in which I have carried out certain duties in the office of the Attorney General since I took it, firstly on a temporary basis in September last year and then substantively when I was appointed formerly to the post by His Excellency the former Governor in early November of last year and, Mr Speaker, it must not be overlooked that I did not arrive in Gibraltar yesterday. I have been here for some five and a half years now and in those five and a half years privileged to have seen a tremendous growth and a fundamental change in Gibraltar, in the structure of it and I hope I have in some way played a part in the future of Gibraltar. I have never regretted for a moment coming to Gibraltar. Not for a single solitary second. The only thing I do regret, Mr Speaker, is that firstly I did not have the opportunity to come here earlier and secondly, the fact that I did not perhaps seek to create the opportunity of coming here earlier. But not for a moment have I regretted coming here. It is well known that when Mr Thistlethwaite, the prior Attorney-General, left I was rather reluctant to take on the post of Attorney-General, having been his No.2 as Senior Crown Counsel for some five years and having been called upon to substitute in that post for different periods of time on quite a considerable number of occasions, but Mr Speaker, I was encouraged to change my mind by a very large number of people, both inside and outside Government and my own profession, the legal profession, and I am deeply grateful to them for persuading me to change my mind. I am proud, Mr Speaker, to be Gibraltar's Attorney-General and I do not intend going home yet despite the number of people who have offered to buy me a one way ticket.

Laughter.

HON A J CANEPA:

Mr Speaker, we do not have the funds on this side.

HON ATTORNEY GENERAL:

I accept that wholeheartedly Mr Speaker.

Now Mr Speaker, I am well aware how my predecessor did his job as Attorney General and I am well aware of the reasons he expressed for leaving the post when he did and not staying on any longer. I liked him very much and as I said in the Supreme Court in October of last year it was a most beneficial and rewarding experience for me to have worked with him for the five years that I did and when I took on this job, Mr Speaker, I had no elusions whatsoever but that it is the most difficult and demanding job to have to carry out and I knew that I would have to make decisions, from time to time, which would not always be received with complete popularity and accord. I knew that there would be a certain amount of dissent and some people perhaps would be irritated and extremely annoyed even, if I may go to that extent, with decisions which I had to make. Mr Speaker, I did not promise to do the job anything other than in my own way, to the best of my ability with complete loyalty and complete dedication to those whose interests I am here to serve. I have done that, so far, and I will continue to do it for the rest of the time I hold the office. And when I am called upon to exercise my constitutional powers, Mr Speaker, when I am called upon to exercise such discretions and to make decisions, I do not unfortunately have time to hold a referendum, to see if those decisions will be popular with all those people who consider they are concerned by the decisions and who are interested and feel they are affected by the decisions which I make. If I can make a decision which has a 100% accord, well that is absolutely marvellous, but if I cannot do that, Mr Speaker, and I can make a decision only, which is popular with some people and most unpopular with other people, well that is unfortunate, but as far as I am concerned it has to be acceptable because the decision is mine and I am the person who is paid to make it. Now, Mr Speaker, there are four ways in which a criminal prosecution can be terminated. Firstly the Crown can seek leave to withdraw and in that case the Courts indulgence is required. Secondly, Mr Speaker, the Crown can ask the Court to allow to lie on the file a particular charge or charges which the Crown do not propose to proceed with and that is done frequently, Mr Speaker at the Supreme Court, for example, if a person is charged with possession of a controlled drug, a simple possession and in the alternate with possession with intent to supply and obviously what the Crown is really alleging is that the accused was in possession of that controlled drug and at the time of being in possession his intention was subsequently to pass it, or a part of it, to another person and that is a far more serious charge of course than simply being in possession

of it with intent to use it purely himself. If in that event, Mr Speaker, for example, the defendant, as often happens in cases in Gibraltar, pleads guilty to the more serious charge of being in possession with intent to supply, then it is quite appropriate and completely usual and common for the Crown to ask leave of the Supreme Court for that count or charge of simple possession to lie on the file and not to be proceeded with without the leave of the Supreme Court or a Court of Appeal. Now, Mr Speaker, in both the examples that I have given so far, are two methods for terminating the prosecution, you will appreciate that the Crown is adopting either of those methods is seeking the Courts indulgence and the Court is perfectly entitled to say "give me reasons why you consider I should grant the indulgence you are seeking", and if the Court does that, well of course Mr Speaker, the Crown has an obligation to give reasons. But there are two other ways, Mr Speaker, in which a criminal prosecution can be terminated and that is when the Crown does not have to give reasons. The Crown can offer no evidence and themselves invite the Court to dismiss the charge. That serves as an acquittal, Mr Speaker, to the defendant of the offence with which he is charged and the Crown does not have to give any reasons for dealing with the case, for terminating the prosecution in that manner. Fourthly, and finally, Mr Speaker, we come to what this motion is really all about and that is the privilege, the constitutional privilege, which is vested in the Attorney General and only in the Attorney General to terminate a prosecution by the entry of a nolle prosequi. Now, Mr Speaker, that is a constitutional power which is enshrined in our Constitution Mr Speaker, and as far as I am aware it is a power vested in the Attorney General of all countries who either have a written Constitution or who have a system of justice based on the British system of Justice, Criminal Justice, I am talking about of course, which we practise in Gibraltar. In my public capacity, Mr Speaker, as the Attorney General, that power is now vested in me. The Honourable Leader of the Opposition has been kind enough and quite properly conceded that he recognises my constitutional right to terminate a prosecution when I consider it appropriate to do so, and with respect, it is right and appropriate for him to recognise that that power is indeed vested in me, but what he does not appear to recognise, with respect Mr Speaker, is that not only do I have the right to terminate a prosecution but I also have the right, and I certainly have no obligation, to give reasons. And if I do not have an obligation, and I certainly do not have such an obligation to give reasons Mr Speaker, then it follows that I have the right to decline to give reasons, either publicly or privately or both, for any such decision I take. Because Section 77 of the Constitution reads this way, Mr Speaker, "The Attorney General shall have power in any case in which he considers it desirable so to do -

- (a) to institute and undertake criminal proceedings before any court of law (not being a court established by a disciplinary law);
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and, most importantly perhaps, Mr Speaker, in the context of this motion:-
- (c) to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority".

And sub-section 2, Mr Speaker, states:-

"The powers of the Attorney General under the preceding sub-section may be exercised by him in person or through any persons acting in accordance with his general or special instructions".

Now just let me pause if I may for a moment there, Mr Speaker. When the Attorney General enters a nolle prosequi that can be done in two ways. He can either go to Court personally, he cannot send a representative of his Chambers for this purpose, he must either go to Court personally and tell the Judge or the Magistrates, personally, that he has decided in exercise of his constitutional powers to discontinue the prosecution in that method. Or, Mr Speaker, what he can do is to sign a written document and this is always how the entry of a nolle prosequi has been effected in the five and a half years of service I have been in Gibraltar. It is effected by the signing by the Attorney General of a written document and that document begins, Mr Speaker, by saying that the Attorney General considers it desirable and that is the phraseology which always has been used in each and every nolle prosequi that I have seen entered in Gibraltar during my time as Attorney General and during the five years or so I served as Senior Crown Counsel to the former Attorney General. Mr Speaker, he considers it desirable. Then the document goes on to recite the name of the defendant and the charges which the Attorney General is discontinuing, which might of course, Mr Speaker, be all of the charges with which that defendant is at present faced, or it might not, it might be only one or more of several charges with which the defendant is faced. That again is something for the Attorney General to determine when he decides to exercise his constitutional powers under section 77. The name of the defendant and the charges discontinued are set out and the nolle prosequi continues by confirming that the Attorney General hereby discontinues all criminal proceedings in respect of the aforementioned charges and the document is dated and signed by the Attorney General and it is then filed in the appropriate court, the

Magistrates Court, the Supreme Court or the Court of Appeal because the Attorney General's powers extend to any Appellate proceedings still being continued at the time he decides to exercise his powers. And under Section 58 of the Criminal Procedure Ordinance, Mr Speaker, the court then has a duty on receipt of such a nolle prosequi to discontinue proceedings, to note in their records that the proceedings are being discontinued in that fashion, to notify the defendant, if he is not present in court when this happens, and thereupon to discharge him from all further involvement in those proceedings. Now Mr Speaker, the entry of a nolle prosequi is not an acquittal it is not the same as a verdict of finding someone not guilty and it is always open to the Attorney-General, present or any future Attorney-General, at any time to resurrect that prosecution, if circumstances arise which again, in his opinion, render that course of action a justifiable course of action to take. Now, Mr Speaker, most importantly sub-section (3) of section 77 says this

"The powers conferred upon the Attorney General by paragraphs (b) and (c) of subsection (1), those to which I have just referred to, Mr Speaker shall be vested in him to the exclusion of any other person or authority: and, Mr Speaker, I lay, if I may, emphasis on those words because they are of paramount importance in the context of this motion. "To the exclusion of any other person or authority". Mr Speaker there is a proviso which says "where any other person or authority has instituted criminal proceedings, nothing in this sub-section shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court".

Let me explain, Mr Speaker, where and in what circumstances that proviso could arise, or apply.

For example, if the Commissioner of Income Tax had issued a summons, or criminal summons, in the Magistrates' Court alleging that an employer had deducted tax from an employee under the PAYE system and had failed to account to Government for that tax and that, as the House is well aware, amounts to a criminal offence and such a prosecution would normally be instigated by the issue of a summons against the employer alleged to have been guilty of such an offence by the Commissioner of Income Tax in the Magistrates' Court. Now if between the issue of the summons, Mr Speaker, and the hearing date of the summons when one would expect the person against whom the summons has been issued to appear before the Court, the tax alleged not to have been paid is paid and the Commissioner of Income Tax, in his discretion, wishes

to terminate the prosecution, then that proviso would apply. And he would not have to come to me, in those circumstances and say "Can I have your permission to do it". Because he could do it of his own volition as a result of the contents of that proviso. So the fact that that constitutional is vested in the Attorney General, to the exclusion of any other person or authority, is as I have felt it appropriate to illustrate to this House, subject to the proviso I have just mentioned. Now, Mr Speaker (4) is without doubt the most crucial sub-section of section 77 for the purposes of that which we are considering now. Because sub-section (4) states:

"In the exercise of the powers conferred upon him by this section the Attorney-General shall not be subject to the direction or control of any other person or authority".

Now, Mr Speaker, it is one thing for the Hon the Leader of the Opposition to say that he recognises my constitutional right to terminate a prosecution in the manner I did this one against the four Spanish Customs Officers who were accused of landing on Gibraltar soil on the 30th June of last year and committing offences contrary to the Firearms Ordinance and the Immigration Control Ordinance. It is one thing to very properly, if I may say so, recognise my authority to do that but it is another thing to suggest, as he has done, that I am in any way obliged to give reasons publicly for my decision. Because to ask this House to express a regret that I have declined to make publicly known my reasons for the decision I reached, Mr Speaker, must necessarily imply that I have some sort of obligation to give reasons for the decision. I say Mr Speaker, that I do not, constitutionally or otherwise have any obligation to give any reasons whatsoever for that decision. Now, Mr Speaker, it is my experience, and I say my experience, it is my belief, from such research as I have been able to carry out that by convention the Attorney-General never gives reasons, publicly for the decision which he reaches. He may consult and seek the views of other persons prior to reaching such a decision and prior to terminating the criminal prosecution. He may decide as a matter of courtesy, not obligation, Mr Speaker, but courtesy to inform others of the decision he is taking after making the decision, as I did in this case, I felt as a matter of courtesy, because of the defendants being who they are, that I should inform his Excellency the Governor and I did and if the Hon the Chief Minister had been readily available to contact at the time, I would, as a matter of courtesy, but most certainly not as a matter of obligation, have informed the Chief Minister also. Mr Speaker, I never have, and I do not ever envisage, any circumstances arising where I would find it necessary or appropriate to go to the Governor or the Hon the Chief Minister and say I am thinking of terminating a prosecution

by this manner, do I have your permission to do it. I do not need the Hon the Chief Minister's permission to do it and if I know him just half as well as I feel I do, Mr Speaker, he would not want me to do it. He works 25 hours a day, 8 days a week to cope with all the problems he has to cope with now and he does not want, and I say this with the utmost confidence and conviction, Mr Speaker, he does not want me going to him and burdening him with problems I am paid to cope with and seeking his views on decisions I am paid to make. Decisions my office require me to make, whether or not they are popular or unpopular, with all or with some, they are my decisions and I will not shirk from making them unpopular or popular I think they may subsequently prove to be. Now, why, Mr Speaker, is the Leader of the Opposition asking this House to regret that I have declined to make public my reasons for the decision I took in this case. Is it because the Spanish Customs Officers are alleged to have fired shots on Gibraltar soil? Is it because they landed in Gibraltar soil? Is it because they are Customs Officers? Or is it because they are Spaniards? Not Gibraltarians, not English, not any other nationality, but Spaniards? Is it? Well only he knows that, Mr Speaker. However, Mr Speaker, as far as I am concerned I am paid to uphold the rule of law. I am paid to represent the interests of the Gibraltar Government and the office of His Excellency the Governor and I will do that to the utmost and the very best of my ability. But, Mr Speaker, in upholding the rule of law, which has been spoken about in this House on a number of occasions, as far as I am concerned all men are equal in the eyes of the law whether they be Chinese, Japanese, Lebanese, Spaniards, English, Gibraltarians or whatever, they are all entitled to equal treatment and to equal consideration so far as the law is concerned. And when I am called upon to make a decision they will be considered and they will receive equal treatment in that fashion. Now, Mr Speaker, when a nolle prosequi is entered, a prosecution is terminated in this fashion, it is because the Attorney-General holding the office at the time, on the circumstances, or based on the circumstances of that offence and all other consideration affecting those particular charges and those particular defendants, he deems it desirable that the prosecution should not be continued with. Now, Mr Speaker, let me tell this House and let me make it as clear as I possibly can to this House that this was my decision and I stand by it and I take responsibility for it. I was not, as has been suggested perhaps, pressurised by the Foreign and Commonwealth Office, the Chief Minister, anybody in Government, His Excellency the Governor or anybody else to make this decision. I took it, Mr Speaker, I took it on my own volition under no pressure, under no compulsion, under no persuasion whatsoever. If it turns out to be the wrong decision, and for those in Gibraltar who now, and since it was taken, may think

it is the wrong decision, well fine. But it was my decision, I took it on my own volition not as a result of any pressure or persuasion brought to bear on me. There was no such pressure or persuasion let me tell this House from any quarter whatsoever. Now, Mr Speaker, when the prosecution was brought following the incident which occurred at Eastern Beach on 30th June of this year that was the decision of the then Attorney General, his decision, a decision which he was entitled to make, and whether I agree with that decision is totally irrelevant. I was not Attorney-General at the time, he was. And what I will do, Mr Speaker, as strongly as I can, is defend his right to have made that decision, to have made the decision he thought, at the time, was the appropriate decision to make. Mr Speaker, I will defend, with equal vigour, my decision, my right to make that decision which I made some five or six months later. As I have said, I decided to terminate the prosecution because I decided and felt it was the appropriate decision to take. Mr Speaker, I am not prepared, still to make known publicly my reasons, to this House, or make known my reasons publicly anywhere else for the decision which I took at that time. I have stood by that constantly and I will continue to stand by that. No matter what motions are brought and no matter what criticisms are made of me for having made the decision which I made. Now, Mr Speaker, why is the Attorney-General, you may think, you may wonder not obliged to give reasons for his decision? Why by convention does he not publicly give reasons for his decision. Suppose, Mr Speaker, I was faced with a situation where a defendant had been prosecuted for a criminal offence and he was waiting trial say at the Magistrates' Court or the Supreme Court, where trials do not always take place as quickly as one would like and then I was suddenly presented with medical evidence to satisfy me he was suffering from a terminal disease and he only had a very short time to live and if in the exercise of my compassionate discretion I decided to terminate that prosecution am I expected to discuss with the press what terminal disease he was suffering from. What about if it was Aids, was I expected to tell the press that, Mr Speaker. Am I supposed to make known my reasons? Am I expected to give reasons in circumstances like that? Do I give reasons for having exercised a compassionate view and brought to an end the prosecution against him? One other example, Mr Speaker, suppose a girl with an illegitimate child alleged that some man had raped her and suppose it became apparent during the preparation for the trial that the defendant who is charged with that serious offence intended to raise a defensive consent and applied to the judge for leave to seek to produce evidence of her connection with other men, of her sexual connection with other men, and this girl as a result of the complainant in the hyperthetical rape case was terrified about coming to court and knowing that probably her character would be smudged. What do I do in a situation

like that? I have two choices, I can either force her to come to court by the issue of witness summons followed by her physical arrest if need be or I can take again the compassionate view to be sympathetic of her position and I can terminate the prosecution in this fashion. But again Mr Speaker, would the Honourable Leader of the Opposition or anybody else in this House expect me to talk to the press and to talk to the public about my reasons in those circumstances, for having brought that prosecution to an end. In all the cases, in the time I have been in Gibraltar, where a nolle prosequi has been entered, the Attorney-General, to my knowledge, has never been criticised and he has never been asked to make public the reasons for the decision he took. This is the first time this has happened, certainly since I have been here, and this House may wonder why. Now, Mr Speaker, the House I suggest should consider whether in moving the motion in the manner in which the Honourable Leader of the Opposition has done, what he is really trying to do is to question my constitutional position. This House I respectfully suggest, Mr Speaker, should accept my entitlement to decline to make known my reasons publicly, rather than express regret, as the Honourable Member has suggested is appropriate. Mr Speaker, the motion is in three parts and the second part of the motion asks the House to consider that my remarks about sovereignty were inappropriate. Let me say this that when I told the press in response to questions, and let us bear in mind, I do not ring up the press and tell them what is happening rather they ring me up because they have heard something which they might think is an item of news worthy of inclusion in their respective newspapers or worthy of reporting on radio or television. Now if I refuse to talk to them well I get criticised for that and if I do talk to them, sometimes I am not quoted with absolute accuracy, and I thank the Honourable Leader of the Opposition for the advise he has given as to the care I should exercise when speaking to the press. He is absolutely right about that and it is not the first time I have been given such advise. Also, Mr Speaker, it is not the first time I have given such advise to those who are junior to me. I have got something like thirty years experience, Mr Speaker, in the legal profession and I do know that even the slightest misquoting of something I say in the press can put a different context, a fundamentally different context, on the report which they make. What happened in this case, Mr Speaker, is as most members of the House, I believe, know already is that the press rang me up and they asked me firstly about what has been termed "the initiative I am taking in continuing to pursue and hopefully improving the degree of cooperation which exists at present between the law enforcement agencies of Gibraltar and Spain so far as criminal justice and the enforcement of it is concerned" and I was asked why I was taking this initiative and what I pointed out is that this

was a furtherance of the degree of cooperation which the Commissioner of Police, both present and past, had pursued for quite some time and I felt that the time had come for certain initiatives to be taken at a legal level, at my level, in my public capacity and I was asked Mr Speaker, if I felt that that could possibly be interpreted by Spain as a weakening of Gibraltar's resolve to resist Spain's claim to sovereignty. That is what I was asked and the reply I gave was that that had nothing whatsoever to do with me. I have said in this House that I am not a politician and I do not want to be. I have no wish to interfere or participate in policy making decisions. Mr Speaker, it must be right, does any Honourable member of this House suggest that the dispute between Gibraltar, Spain and the United Kingdom concerning Spain's claim to sovereignty of Gibraltar does have anything to do with me. It does not, Mr Speaker. That is the answer and that is what I said in response to a question put to me and I did indeed say that in the context of sovereignty having nothing to do with me "look put that to one side, it has nothing to do with me, let the politicians continue to argue about that and leave law and order, which are my responsibilities, for me to endeavour to further to the advantage of Gibraltar". I was also asked virtually the same question again, Mr Speaker, a few days later when it came to the notice of the press that I had entered, not that I was about to enter, but that I had already entered several days earlier a nolle prosequi terminating the prosecution against the Spanish officers. I was asked again exactly the same question and I gave the same answer. Mr Speaker, sovereignty and politics do not have anything to do with me because I am not an elected member but an ex-officio member of this House. I have made it crystal clear, I hope, that I do not participate in policy making decisions which in any way shape Gibraltar's future and its growth or affect Gibraltar in any other fashion. I see it clearly, Mr Speaker, as my duty to see that the law is capable of implementing the policies which the elected Government wish to pursue. That is my job, as I see it, and if the law is not so capable to advise on how, if at all, it can be amended to enable Government to pursue the policies it wishes to pursue and whether, I personally, like those policies or not is utterly and totally irrelevant in the context of my public office. When it comes, however Mr Speaker, to the administration of criminal justice in Gibraltar, that is something in respect of which I have a number of important responsibilities, that is what I told the press, not once but twice. Mr Speaker, I will give precisely the same answer if I am asked again and if this House wishes to condemn such answers as inappropriate remarks, well Mr Speaker, so be it. I can deal with the third part of the motion much more quickly Mr Speaker. The House of course is entitled to believe whatever it wants to believe

but I have told the Gibraltar Chronicle more than once and I have told this House and anyone else who is interested that the two decisions which form the subject matter of this motion, the entry of a nolle prosequi and my initiative, as it has been termed on law and order, have absolutely no connection whatsoever with the charges. Mr Speaker, when I first came to Gibraltar in late 1984, the gates were locked at the land frontier between Gibraltar and Spain and it was only possible then to get across on foot and members of this House will recall much better than I do, I am sure, that when you went across on foot to Spain in those days you were restricted as to what you would carry.

HON A J CANEPA:

No we do not recall, Mr Speaker, because we did not go across.

HON ATTORNEY-GENERAL:

Well I did Mr Speaker, for the first few weeks I was here, first few months, prior to the gates being opened and the frontier being opened fully and it was not easy in those days. It was almost impossible from what I saw the searches of handbags and so forth which were carried out to smuggle anything across the frontier, but when in February 1985 the gates swung open and to vehicular traffic and all and sundry were allowed to come and go as they pleased, despite the delays from time to time, substantial delays from time to time, to which the Honourable Leader of the Opposition has made reference and which we are all aware of, then the level of crime, serious crime, started to substantially increase. Now even as Senior Crown Counsel and the then Attorney General's deputy, Mr Speaker, that worried me. It worries me that crime is continuing to increase and it is very helpful for the learned Chief Justice as he always does in his speech on the occasion of the opening of the Legal Year to give statistics about how many criminal prosecutions there have been. How many persons have been convicted and how many persons have been acquitted, but what the courts do not get to know about, Mr Speaker, is the number of dockets which come to my Chambers for advice on whether there is sufficient evidence to bring a prosecution and we have to send them back and say "in our view, there is not". And what the courts of Gibraltar do not get to know about, Mr Speaker, either than in the context of the Annual Report by the Commissioner of Police, is the number of undetected crimes, the number of crimes, committed in Gibraltar where nobody is apprehended because it is so easy now, Mr Speaker, to steal something, for example, in Gibraltar and then to take it to Spain where it disappears and it is never seen again. It seems to be so easy in particular to smuggle cannabis and other controlled drugs over the border and to bring stolen property from Spain into Gibraltar.

Now of course that worries me, Mr Speaker, it is my job to be worried about that. Now, if by approaching the Spanish law enforcement agencies and their legal advisers, there is anything I can do to assist in stamping that out, or at the very least contain it, then I will do it and I am doing it and I will continue to make every possible effort I can. Mr Speaker, I would love to be able to say to this House that I can guarantee my efforts in that respect would be successful but I cannot say that. I can only promise to try and if my effort should produce no fruit whatsoever then if the people of Gibraltar for whom I do care deeply about, despite what the Honourable Leader of the Opposition has suggested to the contrary, if they want to say "well he was a fool for even bothering to try", well fine, they are entitled to say that. But at least let them say, Mr Speaker, I have tried, let them at least say that. Mr Speaker, the question of cooperation at this level, and at all levels, was something which was being discussed in 1984 when I first arrived. It was something which the former Attorney General and myself frequently discussed with the Collector of Customs, with the former Commissioner of Police and with the present Commissioner of Police. All I have done, which I did very quickly after taking up the office of Attorney General, is to take that one stage further, that is all, and only a few days ago, Mr Speaker, the Commissioner of Police and I believe the Collector of Customs travelled to Sevilla and they had discussions there with certain law enforcement agencies on the question of cooperation in the Criminal Justice field between Gibraltar and Spain following on with the meeting which I had last month and which had been well reported in the news media. Other meetings I hope will be arranged, Mr Speaker. The Commissioner of Police is making efforts in that respect, but I tell this House that there is no connection whatsoever between the dropping of charges against the Spanish Customs Officers and the so-called initiative which I have taken, as one stage further, of the efforts which had been proceeded with for some very considerable time before my initiative first arose. Mr Speaker, it will come as no surprise I am sure to this House to hear that I will be most definitely voting against this motion.

MR SPEAKER:

If there are no other contributors I will call on the mover to reply. But if there are going to be contributions that is going to be long, I think probably the time is now to recess and come back in twenty minutes time.



HON CHIEF MINISTER:

Mr Speaker, I am grateful to the Leader of the Opposition for the way in which he has defended the motion on two counts really. One that he has recognised that it is not really the role of the House to question the function of the Attorney-General, which are in fact laid out in the Constitution, otherwise we would be questioning whether the Constitution should give the Attorney-General the degree of independence that he has and also because he has made clear that he accepts that this is not a matter in which the elected Government of Gibraltar has been involved in taking a policy decision. He may feel that I ought to be upset for the fact that I was not consulted, but I do not feel like that myself about it and it is a matter of judgement. I also find in fact that when he explains the kind of reactions that Gibraltarians have had as reflected in the letters to the press and in the phone-ins and so forth which as he himself put it rightly or wrongly is a way that Gibraltarians react because of the harassment that Gibraltar has been, and continues to be subjected by Spain, then as a Gibraltarian I feel the same way myself. However I think even if the Attorney-General were a Gibraltarian he should not allow his nationalistic feelings to colour his professional judgement, and therefore, I think, it is important that people should understand that it has to be like that and that it cannot be any other way. And that the explanations given by the Attorney-General in, if you like not simply, defending himself against the implicit accusations in the motion but indeed, if you like, making no apologies for the stand that he has taken is one which the rest of us are entitled to disagree with or agree with but what we cannot do is seek to deprive him of his right to take the position that he considers to be his duty to take and to defend it. And I do not think the House can pass a motion regretting that the Attorney-General has refused to make public his reasons for that decision that he took without asking the Attorney-General to go. Whatever the Leader of the Opposition believes, he may think, that it is not a motion of censure, but I think it is incompatible for the House to regret a decision of the Attorney-General and say to the Attorney-General he should continue to be the Attorney-General, and I do not think that frankly.....

HON A J CANEPA:

I do not regret the decision. It is his failure to give reasons, Mr Speaker.

HON CHIEF MINISTER:

Right, Mr Speaker, the decision not to make his reasons public. That is still his decision and he has just said

that he will not make his decision public. He is doing it in the exercise of his powers, I mean not only is he entitled, under the Constitution to decide whether to institute proceedings or whether to continue them or whether to discontinue them but the Constitution also says that he shall not be subject in exercising his powers to the direction or control of any person or authority, including the House of Assembly, which is set up by the same Constitution. So we cannot in fact try to direct the Attorney-General or control him in exercising his powers without being in breach of the Constitution. It seems to me that if we regret the way he has conducted himself on this occasion we must be given a directive on how he conducts himself on the next occasion that he has to take a decision, or are we saying that we are not seeking to control him, so he can keep on doing it and we keep on regretting it. Coming to the second point of the motion Mr Speaker, I am not sure that the remarks over sovereignty were appropriate or inappropriate, I think the spirit in which the Attorney-General said it was done and that he

is not doing that in the context of the bilateral Agreement between Britain and Spain under Brussels which is the Agreement where the issue of Sovereignty is included and the issue of cooperation is included and where the Attorney-General certainly is required by the GSLP Government to accept the policy on which the GSLP Government was elected which is one where we reject the Brussels Agreement. The Government rejects the Brussels Agreement, it fought the election on that issue, was elected on that issue and therefore if it was any question of saying we are going to have cooperation with Spain as part of the Brussels process then I would say to the Attorney-General you cannot have cooperation with Spain under the Brussels process. You can have cooperation with Spain, if that is going to enable you to be more efficient in catching criminals because that is what we are paying you for, but not to negotiate the Brussels process, so whether the report on what he said on sovereignty reflected that or not I do not know and I have looked at the report to see whether there was something in it that I could find inconsistent with our own position as a Government on sovereignty and what the Chronicle of the day reported was that the Attorney-General insisted "that matters related to sovereignty were for politicians". I am responsible for the administration of justice and sovereignty is one thing and international crime is another". I think if you just take sovereignty as one thing and international crime is another in isolation, then you might say "well what is he up to, what is he trying to say?", but I think if you read it in the context where he is saying that the question of the Spanish claim on sovereignty is



one which has nothing to do with his initiative on law and order, then we would expect him to say that, because we would not want it to be taken that the initiative that he took on talking to the other side about law and order is part of the Brussels process. The Honourable Member had in fact a question earlier on in this House about whether the Attorney-General in fact had asked me or consulted me about the proposed initiative with Spain on law and order and he also asked me what my views are on this initiative. Well first of all the answer is he did not consult me and the second thing is that as far as his initiative is concerned, if the initiative is intended, as I would expect it to be intended to hopefully, produce better control of drugs smuggling into Gibraltar, which is what we want to prevent, because we do not produce drugs here, if they are consumed here they are imported from outside. And they are certainly much more easily available in Spain than they are in Gibraltar. So if the initiative helps to bring greater apprehension of people intending to bring drugs into Gibraltar, then I think it is a very good idea. Certainly if the initiative is expected to produce a more friendly Spain, then the answer is I do not expect that it will produce a more friendly Spain and it is none of the Attorney-General's business to go about the business of producing a more friendly Spain. So certainly I would not expect the Attorney-General to have taken an initiative on law and order with our neighbours in order to create a more friendly political atmosphere because that is not what he is there for. I would expect him to have done it simply because it is better to try and get the cooperation on the other side which unfortunately we have not had and which in fact I have on more than one occasion told the international press when they have said "what you are doing is not cooperating with the other side". This is a result of accusation in the Spanish press. We have had situations, according to the information that I have from the Commissioner of Police, where we have not been able to prosecute people apprehended because the evidence has been held in Spain and the Magistrate, the Judge or whatever in Algeciras has refused to release even a sample of the drugs to our police forces and therefore our police forces because they have not been able to produce material evidence of possession have not been able to put forward a watertight case. Now, Mr Speaker, this is something we want to change, not as part of any process or political understanding with Spain, but simply because we are committed as a Government to stamping out drug trafficking and not only are we committed as a Government, in fact the law enforcement agencies in Gibraltar and any self respecting Attorney-General would not work for a Government that was not and frankly if the Government of Gibraltar wanted to turn Gibraltar into a drug peddling paradise I would not imagine that the Attorney-General would

be as admiring in his remarks about the Gibraltarian people as he has been today. The answer to that question is that my views on the initiative is that I see the initiative purely as an initiative between one professional on one side and another professional on the other, and I do not expect it to produce more than professional cooperation and I think anybody that expects that it should produce more does not know our neighbours as well as we do. And it may not even produce that. But at least it is better to try even if it does not produce it. Like it is better, for example, if you have got a situation where we are trying to put a ferry and they are trying to stop it. It is better for us to say, "well look, as far as we are concerned, we are working within international law and we are showing ourselves wanting to implement international law and the people on the other side are not, well fine". It will not stop of course the Spanish media from putting the converse story out, of that I have no doubt. I think the third paragraph of the motion I would say to the Leader of the Opposition that he is probably right in the sense that any person reading or listening to the two things, within a matter of days, would come to the conclusion that the two were connected. But I think if the House says that it believes that they appear to be connected after the Attorney-General says they are not connected, then the House must be saying to the Attorney-General "I do not believe you, you are lying". I do not see how we can vote here that they appear to be connected if the Attorney-General says "I said in the press they were not connected and I am repeating here today that they are not connected, and we say yes but we still believe they are connected". In that event we must be saying "we still believe you are lying to us". But I would agree with the member opposite that unless we believe the Attorney-General is lying in the absence of any confirmation or denial from the Attorney-General, the man in the street or anybody reading the Chronicle and a report one day saying one thing and another day saying that there was going to be an initiative on law and order could come to the conclusion that it was not just a coincidence that the two things happened so close to each other, so really what I am saying is that if one looks at the wording of the motion per se, Mr Speaker, the sentiments that each of those clauses contain are perfectly reasonable sentiments for individual citizens to have because it is not that the Attorney-General is above criticism or it is not that we all have to agree with his judgement, we do not, but what I think the Leader of the Opposition must recognise is that we are bound in this House to behave in a certain way and we all know that if I make a statement and the Leader of the Opposition believes that I am lying he can believe it but he cannot say so because you, Mr Speaker, will not let him. Those are the rules. He can believe the Attorney-General is lying if he wants to believe

that but what he cannot do is say it and that is essentially the essence of the analysis that I put on the motion. Therefore as a matter of logic, if the House were to go ahead with the motion as it is drafted, then the House would be saying that first the explanation that the Attorney-General has given, for example, saying the two things are not connected we would not be accepting. The argument of the Attorney-General that he has a right to exercise his judgement whether he makes public his reasons for proceeding with the case or not proceeding with the case, we would be saying he has not got that right. Now I do not think we can say that without, and certainly we cannot say it over an issue like this, but I certainly do not think we can say that and stay with the constitutional arrangement that we have at present. It may be that we should feel that there should be a politician as an Attorney-General and in that case then the decisions would be politicised. I am not sure that that is an improvement. I do not know how that works and it might work easier in a very big country, but in a small place, I think it is more of a delicate issue. Certainly I can tell the House that I was not consulted by the former Attorney-General when the decision was taken to press charges. I was in London when that happened, but before the decision was taken I was approached by the Foreign Office in London and I made that public at the time and it was suggested to me that this was something that could damage our relations with Spain and it was suggested to me that Spain might be willing to apologise for the incursion that had taken place and argue that it was that they had lost their way and landed on our beaches thinking that they had landed on their beaches. I would have thought the Rock, even with the levanter is sufficiently noticeable, but my reaction was to say "look I do not want to get involved, I do not want to negotiate with Spain on the basis that if they apologise we do not prosecute people who have broken the law". My position is irrespective of whether it upsets Spain or it upsets Gibraltarians I want the people who are paid to take this decision to take it and we will live with the consequences. If the Attorney General decides that he should not prosecute and we have an upheaval of irate public opinion in Gibraltar, then I will defend the right of the Attorney General against my citizens, and if the Attorney General decides to prosecute and we have upset Spaniards and queues occur as a result then I will defend the Attorney General, because I am not defending the decision to prosecute, I am defending the Constitution of Gibraltar and that is what I said in London to the Foreign and Commonwealth Office when they approached me and the Foreign and Commonwealth Office could not argue with that. I mean they have enough trouble getting me to work within the Constitution and once I am prepared to do it they are not going to argue. So really if I were to be asked not, as Chief Minister, Mr Speaker, but as Joe

Bossano, a Gibraltarian what do I think of the decisions of the Attorney General and of the successive decisions, let me say, not just on the most recent one, then probably as a Gibraltarian I will say "look I would not have charged the Spaniards with possession of firearms and illegal entry, I would have charged them with using them", that is what I would have said, which is a much more serious offence and which is what people were upset about. They were supposed to have fired the guns on Eastern Beach, not simply carried them, because it is quite obvious that if they are armed on the other side and if they stray on our territory, they are not going to start ditching the guns overboard, so they arrive wearing them and therefore they are in possession of them. Secondly if I am asked what do I think of the decision of the former Attorney General, not to oppose bail, then I have to say I do not agree with it, because anybody in Gibraltar could have told the Attorney General that the Spaniards were not going to come back. Anybody, Mr Speaker, and therefore if the Attorney General in the exercise of his judgement does not oppose bail, it must be assumed that he expects the person who is being granted bail to reappear. We did not bring any motions here about the fact that they had not been prosecuted for using their firearms and we did not bring any motion here criticising the decision not to oppose bail and frankly if I am asked now, as a Gibraltarian, what is my view about the decision not to continue with the criminal proceedings, then I have to say that I disagree with it. I disagree with the decision of the Attorney General. However, I am not the Attorney General and it is a good thing that I should not be the Attorney General. Otherwise I might finish locking up all the members opposite and then I would not have to pass the Gibraltar Development Corporation to get rid of democracy.

Laughter.

MR SPEAKER:

Not the Speaker I hope.

HON CHIEF MINISTER:

Not the Speaker, we will keep you. You, the Clerk and the Usher. It is a fact of life that it is not a bad thing that however irate and emotional we might feel as we do about everything that affects our relationship with our neighbour, that this should not in fact influence the decisions of the Attorney General and the decisions of the law enforcement agencies in Gibraltar. And, I think, it is a reflection of the fact that our system of democracy is in fact based on the UK. I mean it might be that not everybody in the western world behaves like that. We would not put it past, Mr Speaker, if in other areas, certainly

we must not forget that the Senator that paid a short visit to us which lasted longer than he intended when he appeared in court was very surprised to discover that the fact that he was a Senator made no difference to the law in Gibraltar and that he could not argue that because in Spain he could not be tried or charged or whatever, the same applied in Gibraltar. There we have got a clear example of where the laws of Gibraltar and the laws of Spain differ and therefore clearly members of this House are strongly recommended not to arrive in their yachts carrying cocaine or whatever it was that he was carrying because they would not be above the law. Having I think explained where it is possible for us, as politicians and as citizens and as members of this House to say well look we do not agree with any of the decisions that the Attorney General takes. That does not mean that we should try and stop him taking them or sack him because we do not like them, because I think the danger of following that road and it is something that we need to tell our people so that they understand it.

MR SPEAKER:

I think in fairness to the Leader of the Opposition, I think right from the beginning he meant that this was not the case and that it was not a motion of "No confidence".

HON CHIEF MINISTER:

No, I accept that Mr Speaker, but I am talking about, for example, that both he and the Attorney General himself recognise that there were people that were offering to buy him a one way ticket. And I am saying we must explain to our people that there is a distinction between saying "I disagree with the judgement of the Attorney General", and another thing is because I disagree with his judgement I will sack him and put someone else in who will do what I think is right. That, Mr Speaker, is what we must not do, or condone and make sure that people understand that that would not be correct. So, Mr Speaker, I am going to do something that was often done to me, when I was on the other side of the House, and which I will try and avoid doing as frequently as possible on this side of the House and which is, in fact, to move an amendment which starts with the semi-colon after this House. I have prefaced the amendment with the remarks that I have made, in the hope that the Leader of the Opposition will see the amendment not as an attempt by me to destroy his motion because, in fact, I am removing what there is there, but because I believe, in fact, that we could not support the motion as it stands without really doing something that is not tenable, constitutionally, for us or for the Attorney-General or for anybody else. What I have tried to introduce, Mr Speaker,

into the new motion is, in fact, a reflection of the relationship that, I think, does exist between the independence of the Attorney-General and our independence to disagree with the Attorney-General.

I am therefore proposing, Mr Speaker, the deletion of all the words after "This House" and substitution by the following:-

"(1) notes that in accordance with Section 77 of the Gibraltar Constitution Order 1969 the Attorney-General has the power:

- (a) to institute and undertake criminal proceedings;
- (b) to take over and continue any criminal proceedings;
- (c) to discontinue at any stage before judgement any such criminal proceedings;

and that in the exercise of these powers the Attorney-General shall not be subject to the direction or control of any other person or authority.

(2) accepts that:

- (a) the decision of the former Attorney-General to press charges of possession of firearms and illegal entry and not to oppose bail;  
and
- (b) the decision of the present Attorney-General to enter a "nolle prosequi";

were taken in the exercise of their own judgement and without any form of influence from the Gibraltar Government.

(3) consider furthermore that the exercise of these powers must be conducted without reference to the nationality of those accused or the political popularity or otherwise of any such decision if the rule of law is to be upheld.

(4) accepts that it is therefore for Her Majesty's Attorney-General to judge to what extent he feels he should make public any or all of his reasons for taking any such decision in the light of all the circumstances of any given case".

Mr Speaker, I commend the amendment to the Hon A J Canepa's motion to the House.

Mr Speaker proposed the question in the terms of the Hon the Chief Minister's amendment.

HON P C MONTEGRIFFO:

Mr Speaker, I fully commend the Hon the Chief Minister for his contribution to this debate which, for what it may be worth, I think has been a sensible and balanced exposition of the background to this matter and the position this House should take, formally, in any motion that it will pass. The fact remains, Mr Speaker, that in bringing a motion to the House we are not just expressing views as individuals or as Gibraltarians, but as Members within a Constitution that has certain constraints, whether we like them or not, and that because of that passing a motion of this nature would not be good for us because it would be a complete denial of that basis of constitutional relationship which regulates the way Gibraltar is run. Mr Speaker, until this is changed formally it should not be challenged in such an open way. I also think, Mr Speaker, that the amendment that has been introduced clearly states that the independence that the Attorney-General has as a matter of Constitutional right is reiterated by this House and that is the proper way to deal with the matter. It should be up to us, as individuals to express a view as to whether we consider the Attorney-General's decisions were popular, not popular, right or wrong. I do not think it is necessary for us to express a view as to whether the decision was right or wrong. I myself, Mr Speaker, have a personal difficulty in this matter because although my inclination, as a Gibraltarian, is to say that anything which undermines the jurisdiction of Gibraltar and the sovereign rights attached to that is wrong. However, out of fairness to the man who takes that decision and because I cannot be privy to facts which may have induced him to take such a decision to have taken that view, to actually form a view which is anything other than purely speculative would be totally unfair. So although I can express an inclination, Mr Speaker, there must certainly be very good reasons for the Attorney-General to have taken this series of decisions. I cannot think otherwise and would, if this were not so, very difficult to understand. We can however, Mr Speaker, merely speculate on this because we have no facts available, and we certainly do not want to have these facts available, in order to form a judgement. I think, Mr Speaker, that the motion expresses something from the heart, if I may say so with respect, rather something from the mind. To that extent I am happy to identify myself with it sentimentally but to urge that the motion, intellectually or academically, should be the Chief Minister's amendment so that the message that goes out today could be that whereas our hearts are all in the same place it is not for us to take these decisions, it is not for us to be able to form a view on how the decisions were taken, because we do not know how they were taken, and that therefore what we should be doing is actually be reiterating and bolstering the independence of the Attorney-General, not judging his actions but simply recognising his right to take such decisions in this context as he felt were appropriate. I therefore, Mr Speaker, support the amendment to the motion.

HON A J CANEPA:

Mr Speaker, I am going to be very brief when speaking on the amendment. We are not going to support the amendment but on the other hand we can hardly vote against the amendment when nine tenths of it is purely factual, in that it quotes what the Constitutional position is. Therefore, Mr Speaker, having said, both in a Press Release and in my earlier intervention, that we accepted what the Constitutional position was we can hardly vote against. I however notice, Mr Speaker, that the second paragraph of the amendment rather cleverly limits the statement about any form of influence having been exercised on both the former and present Attorney-General to the Gibraltar Government. In other words the Honourable Members opposite, the Gibraltar Government, is making no judgement whatsoever as to whether influence may have been exercised by some other quarter. I would find it extremely difficult to accept that the Honourable Mr Kenneth Harris is a bigger man than Mr John Havers, than Mr David Hull, than Mr Eric Thistlethwaite in any matters to do with the Foreign and Commonwealth Office. I think it would be, if he says so, I am not going to say that he is lying, no. But, it would be extremely difficult to accept that because if he did not consult the Foreign and Commonwealth Office, if the Foreign and Commonwealth Office did not know or if they did not exercise any influence so that he would drop charges and something went wrong, if he had not consulted them and they said "yes, we encourage you, go ahead, of course have an initiative on law and order and by all means let us wipe the slate clean, drop charges and let us start afresh because we have got these awful problems of drugs smuggling and the helicopter and so on and we are being embarrassed". If that did not happen then if anything went wrong his head would roll. His head would roll because he had not consulted the Foreign and Commonwealth Office and because he had not communicated with the Foreign and Commonwealth Office. I speak this, Mr Speaker, with the experience of sixteen years in Government and a very close involvement over the last six or seven years of my time in office with dealings with the Foreign and Commonwealth Office. We know, Mr Speaker, how things are done and if they have not been done that way I would be extremely surprised and I would say Mr Kenneth Harris is a bigger man than his predecessors. That is just one point. As regards my former colleague on my left, Mr Speaker, he says that the amendment, of course reiterates the independence that the Attorney General has. But what does he expect us here to do about this? To say amen. To get excited about it. We would not have wasted time in bringing this motion to the House. What would have been the point of

making a song and dance about the whole issue, bringing it here, wasting everybody's time, quarrelling with the Chief Minister because he did not give me the opportunity to raise the matter before. And all that to reiterate the independence of the Attorney-General? However that is acting with your head, Mr Speaker, that is your head and not your heart. Come on, Mr Speaker, I have too many things to do and I am aware of the fact that we all have too many things to do to be wasting anybody's time. So what is he saying? I say, as a Gibraltarian and as a politician, as a Gibraltarian politician, and I act as I have always acted with my heart and with my mind and I pursue it with my intellect, my integrity, my commonsense, I pursue every aspect of my political activity in that manner, if he wishes to be as clinical as that, because they have let him off the hook, because if the Government have not introduced these amendments, how would the Honourable Mr Montegriffo vote on the initial motion? That would have been terribly interesting.

HON P C MONTEGRIFFO:

Mr Speaker, if the Hon Member gives way he will know or he might know, from conversations that I have had with colleagues of his that I never thought the motion was a good motion because it was not something which this House of Assembly was competent to discuss. But I was the first person, who in fact when the people landed on the beach and when Mr Canepa was not in Gibraltar, who wrote to the then Foreign and Commonwealth Secretary, I believe it was, or to certainly his Deputy Foreign Minister actually complaining on Gibraltar's behalf. Nobody felt more strongly about the matter but I maintain the view which is that despite the strength of our feelings, that there are ways and means of channelling those views.

HON A J CANEPA:

He has got something wrong, Mr Speaker, I was in Gibraltar, I was in bed for three days ill and I was phoned about the matter and I gave my blessing to the fact that he should write in the terms that he did. He did so with my knowledge and with my full support. Therefore he can see that I conduct my public affairs with my heart, with my mind and thank God I am blessed with a very good memory which is absolutely vital in this business. Of course we will not go beyond abstaining on this motion and we are very glad to see that he is let off the hook.

MR SPEAKER:

If there are no more contributors to the amendment to the motion I will ask the Hon the Chief Minister to reply.

HON CHIEF MINISTER:

I do not want to say anything in addition to what I have already said, Mr Speaker.

MR SPEAKER:

If the Honourable Leader of the Opposition would like to wind up.

HON A J CANEPA:

Mr Speaker, I think that the Chief Minister has obviously taken a great deal of thought and care over what he was going to say. He has given the matter a great deal of thought. In that sense perhaps he was not even ready back in January to have come up with the contribution that he has made today and that could have been the real reason why he really felt he needed to be given time to think more about it. You see, Mr Speaker, whether the Hon Chief Minister likes it or not, the Attorney General who earlier told us that he did not think that he was right having regard to how busy the Chief Minister is working twenty-five hours a day and eight days a week and having all the problems that he has, that he should burden him further with the problem. But what in fact has happened is that the Chief Minister has been burdened with the problem. That on some days he has had to work twenty-five and a half hours and perhaps during some of the intervening weeks he has had to work eight and a half or nine days a week in order to come up with this amendment and with the contribution that he has made. So in that sense of course the Attorney General did perhaps deprive the Chief Minister of his sleep. I know, Mr Speaker, that, the Chief Minister only needs about four hours sleep a day because he is one of those lucky people who do not need much sleep, and I would not like to think that the Attorney General has deprived the Honourable the Chief Minister of any of his beauty sleep which he needs as much as we do. I was glad to see that speaking, as a Gibraltarian, the Chief Minister disagreed with the decision not to oppose bail because that reflected the views of people, of the parliament downstairs, which is the one that matters. Immediately that morning downstairs they were saying "What does the Attorney General think", the then Attorney General, "that these people are going to come back. We will never see them here again". Of course that was the public reaction because we all knew that they would never come back. Of course he has also said that as a Gibraltarian, he disagrees with the decision to drop charges. I am glad to see that the Hon the Chief Minister has agreed with the validity of

why he really felt he needed to be given time to think more about it. You see, Mr Speaker, whether the Hon Chief Minister likes it or not, the Attorney General who earlier told us that he did not think that he was right having regard to how busy the Chief Minister is working twenty-five hours a day and eight days a week and having all the problems that he has, that he should burden him further with the problem. But what in fact has happened is that the Chief Minister has been burdened with the problem. That on some days he has had to work twenty-five and a half hours and perhaps during some of the intervening weeks he has had to work eight and a half or nine days a week in order to come up with this amendment and with the contribution that he has made. So in that sense of course the Attorney General did perhaps deprive the Chief Minister of his sleep. I know, Mr Speaker, that, the Chief Minister only needs about four hours sleep a day because he is one of those lucky people who do not need much sleep, and I would not like to think that the Attorney General has deprived the Honourable the Chief Minister of any of his beauty sleep which he needs as much as we do. I was glad to see that speaking, as a Gibraltarian, the Chief Minister disagreed with the decision not to oppose bail because that reflected the views of people, of the parliament downstairs, which is the one that matters, immediately that morning were saying "What does the Attorney General think", the then Attorney General, "that these people are going to come back. We will never see them here again". Of course that was the public reaction because we all knew that they would never come back. Of course he has also said that as a Gibraltarian, he disagrees with the decision to drop charges. I am glad to see that the Hon the Chief Minister has agreed with the validity, of my interpretation, as in the third paragraph of my motion, and I would certainly maintain that it would make sense if the two matters had been connected. If the initiative on law and order and the question of the proceedings had been contested it would have made great sense, and as I said earlier, I might still have disagreed with the decision but I could have understood it and I could have explained it to people and say "well look obviously it was silly not to have contested the granting of bail, but it is a new climate, we really have a very serious problem with drug trafficking and crime and so on and really you know, as a Gibraltarian, I disagree with the decision but as a practical politician and being pragmatic I can understand that he should have been motivated by certain considerations in proceeding in the manner in which he has". I think I must repeat that my first paragraph does not criticise the decision, but the failure to give reasons and as I have just said, and as I said earlier, I indicated my willingness to give consideration and to understand the reasons for the decision if reasons had been made. Turning to the Attorney General, Mr Speaker. The explanation that

he has given about his constitutional powers underlines, of course, why we did say immediately at the time that we were not questioning his right to drop charges. It was the very first public statement that we made on the matter and immediately the preamble to that statement made that position clear. He has a right and no obligation indeed to give reasons. Now I accept that explanation and I understand it perfectly when applied to any case where charges are dropped involving any defendant and the matter is shall we say uncontroversial. Where there is no political dimension to the standing of that defendant or to the charge with which he has initially been charged. But in the case in point it is naive to think that that would be the end of the matter and some of the comparisons that he has made, some of the cases that he gave us examples, for instance where someone is suffering from a terminal disease that I do not think is comparable. Because the only terminal disease there could have been in this case was if someone had got in the way of the bullets that were allegedly fired that night. The two matters are not connected, Mr Speaker. I would have thought that after spending five and a half years here in Gibraltar, that would have been long enough for him to understand that it is only natural that the assumptions, the conjectures, the suppositions that he has referred to at the beginning of his contribution would always be part and parcel of the reaction of the people of Gibraltar on the sensitive issue of the Spanish attitude to Gibraltar for all the reasons that have been stated here this afternoon. Now because he has no obligation to give reasons that is why there is all the more reason why he ought to have kept a low profile vis-avis the press and been particularly careful about the timing of events which I made reference to in my first contribution. Mr Speaker why does the Hon the Attorney-General ask "Why has the Leader of the Opposition brought this motion to the House?". The answer is because the people of Gibraltar, as a whole, do not agree with his decision because, as Gibraltarians, we feel strongly about it and because the decision is a major decision for the reasons that I made abundantly clear in my opening speech. I am now going to conclude, Mr Speaker, with the second paragraph and why I say that his remarks about Sovereignty were inappropriate, and I think that both the Attorney General and the Chief Minister both of them have missed the significance of part of the report in the Chronicle of the 4th January. The Honourable the Attorney General explained the circumstances in which he was quoted by the newspaper. It was in response to Press Questions the Attorney-General said. He explained that it was in furtherance of the initiative which had been taken for many years by the Commissioner of Police and in response to questions about sovereignty he told the press "This has got nothing to do with me". I think that if that is the case, and I accept



that that is the case, then both he and the Chief Minister should pay very careful attention to the Chronicle of the 4th January where it says quoting Mr Harris "That instead he wanted it to show a willingness by Gibraltar to put to one side the question of sovereignty which is a political matter". A willingness by Gibraltar. Gibraltar is not the Attorney General, Gibraltar is not the Chief Minister, Gibraltar is not this House of Assembly. A willingness by Gibraltar and because that is contrary to what both he and the Chief Minister have said in the House today about his remarks about sovereignty, that is why I consider.....

MR SPEAKER:

I must interrupt the Leader of the Opposition because he is introducing now new matters that were not touched before and I think it is only fair to give.....

HON A J CANEPA:

Yes I did, Mr Speaker.

MR SPEAKER:

Did the Hon Member quote that? I beg your pardon then.

HON A J CANEPA:

Yes Mr Speaker, and that is why, in conclusion, at least the second paragraph of my motion would not have appeared in the text of the motion. Because what the Attorney-General should have done, and it may have escaped his notice, but this is why I say that when someone like the Attorney General has words attributed to him and appear in print then they are going to be analysed. Does the Hon the Chief Minister want me to give way?

HON CHIEF MINISTER:

Yes, Mr Speaker. In the brief that I have the reference that I wanted to track down was the Chronicle of the 30th December which is where it says in an interview "Mr Harris emphasised that his initiative is totally unrelated with politics and insisted that matters related to sovereignty were for the politicians". I thought those were the remarks that the Honourable Member was talking of.

HON A J CANEPA:

That is the Chronicle of the 30th December, Mr Speaker. In the Chronicle of the 4th of January, which is the one which reports on Gib dropping charges and where it states, Mr Harris. "I do not want this to be seen as a sweetener

instead he wanted it to show a willingness by Gibraltar to put aside".

HON CHIEF MINISTER:

Where does sovereignty come there?

HON A J CANEPA:

In that context I see this statement as inappropriate and therefore I accept that perhaps the significance of the interpretation that could be put and I obviously accept what the Chief Minister has said that it escaped his notice and it may even have escaped the notice of the Attorney General. But what I would have expected on it being clear that this was appearing in the Chronicle was that the matter should have been clarified, if necessary with a letter, explaining that this was not accurate and that is why earlier in my intervention I expressed the advice that I gave the Attorney General which he said that he had received previously that he needs to tread very very carefully with the press. I think to sum up, from my point of view, Mr Speaker, I think the exercise has been eminently worthwhile notwithstanding the intervention of my colleague on the extreme left, because I think on the one hand the Attorney General has been given an opportunity to explain very very fully to a greater extent than of course he would have done in the press what his constitutional position is and why he has proceeded in the manner in which he has and I think that also the intervention of the Chief Minister in the context of everything that has happened and has been said since then and in the context of what has been said today I think that it is valuable and it is a useful exercise in the people of Gibraltar I think understanding that matters are complicated and that they are complex and that they are sensitive. It underlines the sensitivity of it and why we feel about this matters like we do.

MR SPEAKER:

I think I should say that I do not consider either the amendment or the original motion to be motions of censure. Obviously the amendment clearly is not and in the original motion there are two ingredients that have to be done. One is that the Opposition should have said that they considered it to be a motion of censure and they have clearly said that it is not. Or the Government should have assumed it to be a vote of censure and they would have said so and they have not. So therefore all the Members of the House can vote on both the amendment to the motion and the motion itself.

Mr Speaker put the question in the terms of the motion moved by the Hon A J Canepa 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 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 Miss M I Montegriffo  
The Hon P C Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The motion was accordingly defeated.

Mr Speaker then put the question in the terms of the amendment moved by the Hon the Chief Minister 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 P C Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

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 Dr R G Valarino

The amendment was accordingly carried and the motion, as amended, read as follows:

"This House:-

(1) notes that in accordance with Section 77 of the Gibraltar Constitution Order 1969 the Attorney-General has the power:

- (a) to institute and undertake criminal proceedings;
- (b) to take over and continue any criminal proceedings;
- (c) to discontinue at any stage before judgement any such criminal proceedings

and that in the exercise of these powers the Attorney-General shall not be subject to the direction or control of any other person or authority.

(2) accepts that:

- (a) the decision of the former Attorney-General to press charges of possession of firearms and illegal entry and not to oppose bail; and
- (b) the decision of the present Attorney-General to enter a "nolle prosequi"

were taken in the exercise of their own judgement and without any form of influence from the Gibraltar Government.

(3) consider furthermore that the exercise of these powers must be conducted without reference to the nationality of those accused or the political popularity or otherwise of any such decision if the rule of law is to be upheld.

(4) accepts that it is therefore for Her Majesty's AttorneyGeneral to judge to what extent he feels he should make public any or all of his reasons for taking any such decision in the light of all the circumstances of any given case".

ADJOURNMENT

HON CHIEF MINISTER:

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

MR SPEAKER:

I now propose the question and in so doing inform the House that the Honourable K B Anthony has given notice that he wishes to raise on the adjournment matters relating to the question of the non-collection of rubbish on Sundays and before I ask him to speak I will now call Mr Anthony and in so doing may I remind the House that the debate is limited to forty minutes and that there will be no vote.

HON K B ANTHONY:

Thank you Mr Speaker. Mr Speaker, as you recall a few weeks ago the collection of domestic rubbish within Gibraltar was taken over by the Gibraltar Industrial Cleaners and one of the first things that happened was the discontinuation of the Sunday collection of rubbish and I queried the necessity for this cut in the cleansing services during question time and I was told by the Honourable Minister for Government Services that there were two reasons. The first reason was that the men themselves had asked for this. The second reason was that the Honourable Member told the House that the men were working a seven day week and they never had a day off. Now this is a sentiment, Mr Speaker, which I and all the Members of the Official Opposition fully agree with. Nobody should have to work seven days a week, but there are other ways in which this problem could be solved. For example, they could have roster shifts with each man only working six days out of the seven but the seven days are covered. This is one possibility. The new operation, the new system went into operation a few weeks ago and I can find no fault with the work they are doing during the six days. In fact, I have heard people say, Mr Speaker, that Gibraltar appears to be cleaner now than it was before. However it is cleaner for six days out of the seven only. On the seventh day, the Sunday, it is dirtier than it was before. When I raised this point during supplementaries at Question Time I did point out that the success or failure of this scheme depended upon the cooperation of the public and the Minister also said that the Government were appealing for public cooperation and asking people not to put out their rubbish until Sunday night for collection on Monday mornings. And I said then Mr Speaker, that human nature being what it is and that with the onset of warmer weather very few people would be prepared to keep rubbish, sometimes smelly rubbish, within their homes for twenty four hours plus. It is with regret, Mr Speaker, that I am bringing to the House these facts and that what I said a few weeks ago has been proved correct. Every Sunday morning on street corners throughout Gibraltar you see piles of rubbish. Every Sunday we get visitors to Gibraltar and if they have a drive around or a walk around our city they will see piles of rubbish and this is a sight

which does not enhance our touristic image. This, Mr Speaker is a matter with which everybody in this House recognises as being of great importance to Gibraltar. We are now in February and the hot weather has not yet arrived, but already one of the hazards that I did fear from the non-collection of rubbish has happened. We have received from an incontrovertible source a report of rats being seen in the centre of town on a Sunday morning running over a heap of refuse that had been put out by a local restaurant. Now we may well, Mr Speaker, have rats in town all the time, but nevertheless having bags of rubbish left out on a Sunday morning is an invitation to encourage rats not to discourage them. I agree, Mr Speaker, that the cause of the incident was the refuse that should not have been put out in the street in the first place, but on the other hand, what does a restauranter do with his rubbish on a Saturday and Sunday. Is he going to keep it in the kitchen tied up in black bags? Is he going to put it in some part of his premises? Or is he going to put it out in the street knowing that it would be collected if not the next day then the day after. I think that he and the majority of people do put out their rubbish no matter what appeals are made to them by the Government. Mr Speaker, I am convinced in my own mind that for the overall good of Gibraltar, in terms of hygiene, in terms of our visual appearance to our many visitors, that the Government should accept the truth of what I am saying and look into ways in which the Sunday collection of rubbish could be re-started. What all of us want is a clean and hygienic Gibraltar. An attractive Gibraltar which is clean and presentable seven days of the week and not just six days of the week. I am convinced, Mr Speaker, that every member of this House is in agreement with what I am saying and I look forward to hearing what steps the Government is prepared to consider to remedy this current state of affairs, thank you Mr Speaker.

HON J C PEREZ:

Mr Speaker, when in answer to questions from the Honourable member, the Government gave details of the arrangements that had been instituted at the beginning of January in this House, we said that it was on a trial basis, that is still the case, but it is on a trial basis but not as to whether Gibraltar is dirtier if you do not collect on a Sunday. We all know that if there is no collection of refuse on one particular day that Gibraltar will be dirtier than on other occasions. The trial basis was to see whether the system would be workable with the staff having one day off. To have rostered work would mean the employment of more staff and further escalation of the cost of Refuse Collection and this is something which the Government is not prepared to contemplate. The Government believes that

the arrangements are working satisfactorily as far as the staff is concerned. It is now trying to enforce the law in respect of refuse being left out on the streets on Saturday nights. There is a particular problem and I think this the one that is causing the greatest grievance. Most bars and restaurants close on a Sunday and are putting their refuse out on a Saturday night and is left out until Monday morning. We are appealing and we are talking to the victuallers so that they keep their refuse inside their premises, given that the majority of them are closed during that particular day, and that they should come in early in the morning, on Monday, and put their refuse out. The legislation that there is in Statute Book does not oblige the Government to collect any commercial refuse. The Government has no legal responsibility whatsoever to collect commercial refuse. We do so and we do so at a very high cost because of arrangements and agreements that have had to be entered to over the years with the Refuse Collectors who knew that there was no responsibility and demanded extra payments for that to be collected. We are not going to stop collecting commercial refuse, but we would certainly insist on their cooperation. They could make arrangements for putting out their refuse on a Monday rather than on a Sunday night and we would use all the influence that is in our power to be able to get them to enforce the law. I take the point of the Honourable Member that a very good source saw a rat on a pile of refuse and that can happen at any time on any pile of refuse any night and it is not a fact that Gibraltar is full of rats because of the policy of non collection on Sundays. Someone might have seen a rat, fine, they should have called the Public Health. As far as domestic refuse is concerned the reports that we have is that less and less domestic refuse is seen on Sundays, people are gradually becoming aware of it. It is not a very great inconvenience to keep a plastic bag or two inside the house until Monday morning. In fact Sunday was chosen because many people tend to have less refuse over the weekend because many people tend to go across the border or in the summer to the beaches. Therefore the impact on the householder is less on the day that we have chosen for the men to have a free day that it would be if we had chosen another day. As I said before, the biggest problem we have is with the Victualling trade and we are dealing with this at present. We have got the cooperation of a lot of traders in Main Street and members will notice that the majority of traders in Main Street do keep their refuse indoors when they close on the Saturdays and come early in the morning on Monday and put it out that morning and this is working fairly well. We do not see why Victuallers should be able to do the same given that on occasions, when there have been disputes, it has been known for them to keep refuse inside their premises for a few days. We do not see that

it is a very great inconvenience, particularly considering that most close on Sundays that they should keep it indoors and that they should make arrangements for someone to come down early on Monday morning, say 8.30 and put the refuse outside. So notwithstanding what I have said, I take the point that the Honourable member has made and I can assure the Honourable Member that everything possible is being done and will be done to enforce the law and to make sure that people refrain from putting refuse out on Sundays. Thank you, Mr Speaker.

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

The adjournment of the House sine die was taken at 6.45pm on Friday the 19th February, 1990.



GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

26TH APRIL, 1990

VOL. I

H. I. 26 APR 1990



REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Ninth Meeting of the First Session of the Sixth House of Assembly held in the Assembly Chamber on Thursday 26th April, 1990, 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 J M P Nunez - Acting Attorney-General  
The Hon P J Brooke - Financial and Development Secretary

OPPOSITION:

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

The Hon P C Montegriffo

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon J M P Nuñez, Acting Attorney-General, took the Oath of Allegiance.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 18th January, 1990, 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 Air Traffic Survey, 1989

Ordered to lie.

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

- (1) The Import Duty (Amendment) Regulations, 1990.
- (2) Statement of Supplementary Estimates No.5 of 1989/90.
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.7 of 1989/90).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.8 of 1989/90).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.9 of 1989/90).
- (6) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1989/90).
- (7) Draft Estimates of Revenue and Expenditure for 1990/91.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm

The House resumed at 3.20 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE CHRISTIAN BROTHERS PROPERTY (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to provide for the reinstatement in the Christian Brothers' Property Ordinance of certain provisions omitted due to a misunderstanding in the text of that Ordinance set out in the Revised Editions of the Laws of Gibraltar be read a first time.

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

#### SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the piece of land with which we are concerned is in effect the car park at the front of the Nat West Building. The Christian Brothers' Property Ordinance 1976, vested that property and two other pieces of property in the Christian Brothers and it was due to that Ordinance that they acquired title to the land. They subsequently sold the land to a Mr and Mrs Dobson who in turn sold it freehold to GibCo Ltd. Because the land had been sold and was no longer the property of the Christian Brothers, it was erroneously assumed that it should be omitted from the Christian Brothers' Property Ordinance when that was reproduced in the 1984 revised editions of the laws. The problem that has arisen is that if the property is not mentioned in that Ordinance, the historical record of its title is incomplete. The sale of the freehold land always takes account of the previous transactions in it, to record that each of them have been the transferrer of the title and therefore the last person to have good title and can pass it on to the purchaser. The reason for putting the two pieces back in the Ordinance is to ensure that the title on that land is complete and therefore that the current owners can in fact show good title to it. The particular piece of property was mentioned in Section 3 of the Ordinance and in the Schedule and it had been restored to those two places by Clause 2 of this Bill. The purpose of Clause 3 is to ensure that the property does not inadvertently revert back to the Christian Brothers, ie that the two sales which have taken place since the Christian Brothers were the owners are in fact good. I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we in the Opposition would not wish to deprive users of the aforementioned car park of not even one superficial foot or thereabouts of the 8,235 superficial feet or thereabouts which are the subject of this Ordinance, so we will support the Bill.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, neither would I like to deprive Mr Peralta of sleepless nights if the Christian Brothers caught on to this and decided to sell the land again to somebody else and we find a restaurant being built on that car park, Mr Speaker.

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

HON M A FEETHAM:

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 COINAGE ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to authorise the issue of coins by the Government of Gibraltar, to provide for such coins to be legal tender for payments up to the amounts specified and for matters incidental thereto be read a first time.

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

#### SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, as the House may be aware, in the past, arrangements for the authorisation of coins for Gibraltar had to pass through the Privy Council or have to pass through the Privy Council. This involved going through many stages and a lot of people being involved. It was therefore, amongst other things, difficult to respond effectively to the market. A case has been made and accepted by Her Majesty's Government to transfer to Gibraltar and to the control of the Government the authorisation procedure. Only the designs will now require approval from Buckingham Palace. Arrangements have been made for the Order in Council under which the Proclamation authorising coin issues be revoked and as soon as this has happened, which may be possibly during May, the Bill now under consideration will be brought into operation. Hence the fact that provisions have been made for commencements by notice in the Gazette. The coins that are provided for in the Schedule, that is in the terms of their size, finish and composition, are those currently being issued. The coins will remain legal tender in Gibraltar and in the UK since they will continue to be sterling. I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, we have no difficulty on this side in supporting the Bill and in fact I am grateful to the Minister for the explanation that he has given which in fact pre-empts the questions that we were going to ask as to why before it had been done by Proclamation and now it was being done by an Ordinance. So we thank the Hon Minister for these details and we will be supporting the Bill.

HON P C MONTEGRIFFO:

Mr Speaker, I assume that the authorisation for making legal the use of coins in Gibraltar which has been in place ie the Privy Council, as I understand from the Minister, there will be a straight transition from the lapsing of that authorisation to the Gibraltar Ordinance.

HON M A FEETHAM:

Yes, once it is revoked in the UK we will effectively de facto introduce the provisions in Gibraltar.

HON P C MONTEGRIFFO:

So there is no question of a retrospective effect to this at all?

HON M A FEETHAM:

No, no. We have been doing what we are being entitled to do up to now.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, I do not think I have anything else to say.

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

HON M A FEETHAM:

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

This was agreed to.

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) ORDINANCE, 1990

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, the Bill is brought to the House to make provision primarily for the changes in definitions that are needed to accommodate changes in technology in the provision of a telephone service. The changes in technology which have led to us needing to change definitions are immensely complex and for this reason I will take the House through the Bill clause by clause giving so far as I am able an explanation which makes the technical language understandable to Members. At the same time an opportunity has been taken to update provisions of the Public Utility Undertakings Ordinance which impose criminal penalties. The level of fines as Members will see were substantially out of date and a number of the clauses of this Bill do nothing more than bring these levels up to a more realistic figure. If I may take Members through the Bill in a more precise manner sub-clause 2 makes provision for the Bill to be brought into effect on different days. This has been done in case there is any reason to need to phase the introduction of the Ordinance. As I presently see things it is unlikely that this will be the case. Clause 2 is an amendment to Section 16 of the current Ordinance. Section 16 makes it a criminal offence for an occupier to fail to report damage to electrical lines, fittings, works apparatus or meters provided by the Government in their premises. The effect of the amendment is to increase the maximum penalty in the event of conviction from £5 to £50. Clause 3 is concerned with Section 17 of the Ordinance which imposes an obligation not to wilfully damage the lines etc and not to connect or disconnect meters. The effect of the amendment is to increase the penalty on a conviction for an offence under this section from a maximum of £50 to a maximum of £500. Clause 4 amends Section 19 of the Ordinance. Section 19 of the Ordinance makes it a criminal offence to obstruct an authorised officer from inspecting premises to ascertain the quantity of electricity consumed. The amendment increases the maximum penalty upon conviction from £5 to £100. Clause 5 is an amendment to Section 26. This is the commencement of the amendments necessary to deal with the revised telecommunications technology on which our telephone service

now depends. As I am sure Hon Members are aware we no longer entirely rely upon wires for the transmission of telephone conversations and for this reason the amendment in paragraph (a) of Clause 5 removes the restriction of the definition of the telephone service to being a connection made by wires. The second amendment in that paragraph is really to correct a printers error. Paragraph (b) of Clause 5 continues the same approach, ie, removing the restriction on the definition from being confined to wire or wires and paragraph (c) allows for the extended definition in the Schedule which is provided for in Clause 15 of this Bill. Clause 6 is an amendment to Section 27 of the Ordinance. It is necessary because of the re-definition of Telephone Service to take account of our change in technology to ensure that we do not have a situation where one kind of telecommunication system will prevent the legal operation of another kind of system. We have therefore tried to distinguish between the form of our public telephone service and all other forms of telecommunications activity and here it would be useful if I could ask Members to look at Clause 15 which deals with the provisions in the new schedule which will define a telephone service and also define what is not a telephone service. The provisions of the Public Utility Undertaking Ordinance Part 2 are concerned with the telephone service. What we have had to do is to distinguish that from other forms of telecommunications. We have tried to make this as clear cut as possible, by for example, calling the telephone system the Telephone Service and all other things telecommunications systems and we have made the definition a series of in effect exclusions having in paragraph 1 of the proposed Schedule defined what other things are being communicated by the Telephone Service and what are the methods by which the communications is made. It may not be that apparent on the surface but the exclusions provided for in paragraph 2 of the proposed schedule are public broadcasting systems, baby listening devices, so that Honourable Members and others with children can watch television in one room and check what baby is doing in the other room and the taxi radio system. So coming back to Clause 6, we have confined the provisions of that Clause to our Telephone Service and have made it an offence to run any form of telephone system which is not authorised by Government. We have of course recognised that on occasions the person who is responsible for the Telephone Service may not be responsible for the offence and the opportunity to name a third person and to plead that as a good defence is provided for in the proposed amendments. Moving on now to Clause 7 we have removed subsection 2 as it appeared to be superfluous and also might inadvertently preclude the operation of any office services run on a commercial basis in Gibraltar. Clause 8 again deals with an increase in penalty. Section 34 which it is proposed to amend makes it an offence to make indecent, obscene or offensive telephone calls or calls intended to aggrieve or annoy another person. The penalty on conviction is increased by Clause 8 from a maximum of £10 to a maximum of £500. Clause 9 is again an increase of penalty. Section 35 which is amended by

Clause 9 is concerned with an employee in the Telephone Service who improperly communicates any telephone message or communication, again the penalty on conviction increases from £10 to £100, and I have Mr Speaker given notice of my intention to move an amendment to this figure at Committee Stage of the Bill to correct a printer's error. Clause 10 is again an amendment on the matter of penalty. Section 37 is the telephone equivalent of Section 16 dealing with electricity and that is failure to report damage within one's own premises and this again is increased to a maximum of £50 from the present £5. Clause 11 is yet again an increase in penalty and is concerned with wilful damage and unauthorised connections to telephone lines and the maximum penalty on conviction is increased from £25 to £500. Clause 12 is in the same vein. It is concerned with the dishonesties in the use of the public telephone or the telex system with the intent to avoid payment and it increases the maximum fines from £100 to £1000 on summary conviction and makes provision that on conviction or indictment there is a possibility of a fine as well as imprisonment. Clause 13 is a further increase in penalty in connection with Section 41. Section 41 is concerned with the right of an inspector to enter premises to inspect, repair, alter or renew telephone lines and the penalty is on conviction for obstructing such an officer. The proposed increase is from £5 to £100. Clause 14 makes provision for a new Section 57. The proposed new Section in fact reiterates the provisions which were in 47A and 47B which it is proposed to repeal. However it extends those provisions to either Part 1 or Part 2 of the Ordinance. Then we were previously confined to part 2 of the Ordinance. Clause 15 is concerned with the repeal of Schedule 2 and its replacement. Schedule 2 presently is concerned with telephone rates. It seems inappropriate to continue with this situation. The Schedule is to be used for the definitions as I have described. I fully appreciate that it is a complicated matter and I have sought to explain it using simple language. Although I must say it is still rather complicated if one does not have the Ordinance in front to relate to the amendments that I have mentioned. Finally Clause 16 is the repeal of a number of Sections of the Ordinance. Section 36 was concerned with publishing in the Gazette the terms of subscriber contracts. Since these are already provided to subscribers it seems an unnecessary arrangement. Section 42 and 43 where the Section is making provision for Schedule 2, for the removal of the old Schedule 2 and are now obsolete. As I have explained, Section 47A and 47B which are the final Sections repealed by this Clause are in fact replaced by a new Section 57. 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, I would have thought that if the Minister spends so much time on his feet he might have actually explained a little more about what this Bill is about rather than explaining about amendments to Sub-Clauses provisos and Sub-Sections or whatever. This Bill, Mr Speaker, as far as I am concerned is about taking out of Government responsibility the provision of Electricity and Telephone Services that are supplied in Gibraltar. The important Section which was, if I may say so with respect, somewhat skimpily referred to by the Minister is the new Section 57 which is Section 14 in the Bill and which detailed very clearly, Mr Speaker, that the Government may by contract, on conditions that it itself determines, contract out to any company the provision of those functions which are outlined in the Ordinance as being Public Utilities for which the Government and the Ordinance is responsible primarily ie Electricity and Telephones. As the Minister has rightly pointed out a previous amendment which the Government itself brought to this House I believe in 1989 last year, only gave the Government that power for telephones in the context of the Nynex Joint Venture and it has now been widened to include Electricity. So what we are talking about here is not really the upgrading of our telephone technology as far as the law is concerned, that is an aspect of it, but I would seek to argue that it is a relative by-product of this aspect. The crucial thing, Mr Speaker, is the fact that provision is being made by this Bill for the two services of Electricity and Telephones to be contracted out to third parties. We have had very little detail from Government on the way the negotiations with Nynex are developing and precisely the type of service that the consumers will get. We have also had very little, in fact virtually nothing, about what plans the Government might have to make use of these provision in the area of Electricity. We however have, Mr Speaker, on the one hand a clause that allows the Government to contract out Electricity to for example the Gibraltar Development Corporation and which would allow the Corporation to provide an electricity service. So it is all part of a jigsaw which if looked at in a particular way could seem to be falling into place. The Government comes here with this Bill which, I would suggest, is seeking effectively a blank cheque. The Government says "we want to upgrade the Telephone Services and we want to be able to provide that electricity together with the telephones should be contracted out potentially to a company". But it does not tell us what the details of the service will be, what sort of contracts it has in mind, even in global terms without disclosing confidences, and therefore my attitude will be, the GSD attitude will be, one of not being able to support this Bill because it is very much a question of Government losing the responsibility for the provision of these utilities. It is providing for these services to be contracted out to a private company or to a joint venture company and we in the House do not know the terms. I do not know to what

extent the consumer is going to be protected. I am all for a better service being provided at a better price but I think any Member on this side of the House, like I find myself, would have to say the same thing - "that without knowing what all this is aimed at in more substance I cannot give you the go ahead and that should leave Government's control and proceed into a contract. So the GSD attitude will be to abstain on this Bill. It is impossible for us to support it without further information being given. The extent to which it would end up being a useful piece of legislation depends of course on the type of contracts which Government is able to negotiate with the different parties that it might have in mind. However unless one has details of that or until one is able to assess the terms involved there is no way of knowing exactly what service one is getting. We are not prepared to vote in favour, Mr Speaker, but will simply abstain for the reasons that I have indicated.

HON K B ANTHONY:

Mr Speaker, before I do speak on the Bill, I am a little confused about the Honourable Member on my left. Is he in the House representing the GSD or is he an independent Member of the Opposition? Perhaps the Hon Member could explain.

HON P C MONTEGRIFFO:

The people decide who represents them. I do not think anybody else decides. However if the Government would like to control everything.....

HON A J CANEPA:

Perhaps he will enlighten the Official Opposition. Does the Honourable Member have more than one vote in fact?

MR SPEAKER:

Not yet, we will have to wait for the next election.

HON K B ANTHONY:

Thank you Mr Speaker. I will assume then that the Honourable Member on my left is an independent Member. We in the Official Opposition will be voting against this Bill. We will vote against it on three basic grounds and I am not going to go into depth as the Member on my left has already done. I am just going to explain very simply our three reasons. Firstly, in principle, we are against the privatisation programme on which the Government is embarked. Secondly, we have a lot of doubt about the position of Omrod and Nynex in the future. Is Omrod going to take over from Gibraltar Electricity and the latter to be relegated to a small and minor "top-up" undertaking who will assist Omrod? Or is it going to be Omrod assisting Gibraltar Electricity? Similarly with Nynex what would their relation be with Gibtel.

Will Nynex take over from Gibtel? This Bill, Mr Speaker, does not clarify in any way the position. Thirdly, Mr Speaker, there are no contractual details available at the moment and the Government is asking this House for approval for their contracts without giving us details of those contracts. I appreciate there are contractual confidentiality but I think we could have had a little bit more detail in this House than simply saying we want the contract out, so please approve it. So unless we hear anything further in the debate on this Bill we in the Official Opposition will be voting against it.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, I am speaking for the official part of the Government. The Member from the unofficial part of the Opposition has made song and dance of Section 57, whereas the principle of that Clause has already been debated in the House previously and therefore the only thing that is being done at the moment in Section 57 is the defining it more properly in a legal context and extending it to Electricity as well. I must say at this stage that there are no plans whatsoever to do anything on Electricity. The contract with Omrod has nothing to do with this Ordinance and that certainly the details of the contract of the negotiations with Omrod were given at the time of the completion of the negotiations. A full detailed explanation was given and if and when we finalise all the negotiations with Nynex the same will happen. We shall be giving a full explanation of all the negotiations, Mr Speaker. But notwithstanding that the Honourable Mr Montegriffo has tried again to play down the detailed exposition that I gave when I first introduced the Bill, should have noticed that in the explanations to each Section that I mentioned with regard to Section 57 it re-defines or defines better Section 47A, but the important thing is the re-definition of telecommunications and the exclusion of what is not telecommunications. Because as the Ordinance stood previously the franchise granted by the previous Government to Gibtel was one where the Government was liable to be taken to court and sued by Gibtel because they had no power to give, under that Ordinance, exclusivity of franchise. They had not excluded under the Ordinance as we are proposing today the possibility of someone coming to compete against Gibtel. Therefore, Mr Speaker, that is the most important part of the Ordinance. Because as technology changes you do not need the network to be able to operate the telecommunications system. You can operate telecommunications system by airways. Therefore if you do not exclude the possibility of a third party doing that, then the franchise that has been granted becomes invalid and the Government is liable for any damages

as a result to the company that it has afforded the franchise to. I take the point that the Official Opposition are against the move into a more commercial set up, in general and in principle, but one cannot help that and we must agree to differ. We certainly intend to go ahead with this Bill and if that is the only point that would not allow Members to vote in favour then so be it.

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 M P Nuñez  
The Hon P J Brooke

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 Dr R G Valarino

The following Hon Member abstained:

The Hon P C Montegriffo

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 IMMIGRATION CONTROL (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

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

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



SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of this Bill is to remedy some errors in Section 19 of The Immigration Control Ordinance. Section 19 of The Immigration Control Ordinance provides the Governor with the power to order The Principal Immigration Officer to issue to one of the categories of persons specified in paragraph 8 to seek under the Section a permit for such period as the Governor may specify. Clause 2A of the Bill is designed to clarify what type of permit the Governor is entitled to order The Principal Immigration Officer to issue, namely a permit of residence. Clause 2B of the Bill is designed to correct an error in paragraph (C) of the present Section 19 because as it stands at present it makes very little sense and is intended to clarify the circumstances under which the Governor can order The Principal Immigration Officer to issue a permit of residence to a non-Gibraltarian. Sir, I commend the Bill to this House.

MR SPEAKER:

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

HON A J CANEPA:

We support the measure Mr Speaker. We think that in practice from my years of membership in the Gibraltar Council very often the point that is being introduced is that it is in the interests of Gibraltar that that qualification was, as a matter of policy, always uppermost when considering individual applications that went to Gibraltar Council for a Permit of Residence to be issued to someone who would be termed to be vital to the employment situation in Gibraltar. You may recall, Mr Speaker, that even in your time as Chief Minister, when there was a shortage of labour these considerations were uppermost. Therefore to introduce this into the text of the Ordinance, I think makes abundant good sense. There is also no problem with the second point because to speak about a permit can be vague. The Principal Immigration Officer is entitled to issue other permits so again we have no objection to the matter being qualified in the way that the Bill does and we will be voting in favour.

HON P C MONTEGRIFFO:

Mr Speaker, The Gibraltar Social Democrats are in favour of this Bill, but the point that I would like clarified is in fact it is an issue which has arisen because there has in fact been a number of issues or applications that have been considered that have run into difficulties and that therefore in the interests of Gibraltar we are trying

to clarify the position or is it because of Government projects, and that they would like to bring in certain people into Gibraltar for the interests of Gibraltar's development? Will these amendments facilitate the importation of these people should the need arise?

MR SPEAKER:

If no other Member wishes to contribute I will call on the mover to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, insofar as the Leader of the Opposition comments are concerned I welcome them. As far as the Honourable Mr Montegriffo comments are concerned these amendments are made simply to clarify the position insofar as Section 19 is concerned and there is no other reason that I know behind the amendments.

HON P C MONTEGRIFFO:

Would any other Member of the Government, if the Member will give way, be able to clarify the aspect. I am not against it at all as I have indicated, on the contrary, but I think that the House should be informed if this is the reason for the amendment or is it one of the reasons that what we are looking at bringing in people that will be in Gibraltar's benefit?

MR SPEAKER:

The debate has ended already. Anyway if you would like to reply to that.

HON ATTORNEY-GENERAL:

I have no further comments to make other than the ones that I have already made.

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 BANKRUPTCY (AMENDMENT) (NO.2) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. At the previous Meeting the House passed the Bankruptcy (Amendment) Ordinance 1990. That Ordinance provides certain clarification of the circumstances in which a Trust may be voidable on the grounds of fraud. During debate, at Committee Stage, the Government withdrew provisions in the original Bill with regards to the registration of any Trusts which are specifically set up under the provisions of the Ordinance. In debate concern was expressed that the requirement as to registration could undermine the market to such Trusts. Consequently the requirement as to registration was withdrawn to enable further discussions to take place with practitioners in the Finance Centre. The House was advised however that Government would reintroduce further amending legislation once those discussions had taken place. Let me remind the House that the use of the new provisions is likely to be in the establishment of Asset Protection Trusts. Such Trusts in most cases are a legitimate personal or business device but the facility can be abused. Therefore in broadening the attraction of Gibraltar's legislation for such Trusts, the Government feels that certain safeguards are necessary. In particular it wishes to have some knowledge of both the number of any such Trusts being established under these specific provisions and of who in Gibraltar is establishing them. Hence the intended requirement to register. Upon further discussions and reassurances to register will be simple to administer, containing only essential detail and with full confidentiality. I now understand that practitioners in the Finance Centre are content and will not frustrate the objectors of the Ordinance. It is therefore Government's intention to re-introduce the power to make regulations for registration which is the purpose of the Bill now before the House. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Mr Speaker, this Bill is welcomed. I welcome the consensus that has been arrived at, to put it that way, between the authorities and the practitioners in the details which will regulate the rules that are going to apply. My only comment in supporting this measure is to ask that in finalising precisely what information the register will contain, that

the Government continues to do what it has done and liaise closely with those who are going to market these Trusts because the matter can be a sensitive one and there is a thin dividing line between enough information that is useful to the Government and too much which could detract interest. So I would urge the Government to continue, what I think it has been doing already, which has been taking the views of the people that have an interest in this. I would also be grateful, Mr Speaker, if the Financial Secretary could indicate now that we have got to the stage when it is expected that the detailed rules covering both registration and fees will be published. I assume that it will coincide with the bringing into operation of the Ordinance? It might be useful if some indication were given of that because it would help people who are planning to utilise the law to work to a particular timescale. I would perhaps also ask in conclusion, Mr Speaker, that although a detailed matter the fee that would be charged should be the subject of consultation with the industry. That regard should be had to the fact that very often under a Trust of this nature, according to my understanding, is that there is an underlined company placed which will already pay a certain fee to the Government and I would ask the Financial and Development Secretary or his assistants to contact the industry to make sure that the fee structure remains attractive to them as well as to the Government.

HON G MASCARENHAS:

Just to say Mr Speaker, that we will be supporting the Bill and that we welcome the fact that notice was taken of the representations made at the last Meeting and we are glad to see that the Government does listen now and then. Thank you Mr Speaker.

MR SPEAKER:

If there are no other contributors I will ask the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you Mr Speaker. Of course Government welcomes the sort of liaison that has been referred to by the Honourable Member opposite and that will continue. As to timing we do appreciate the need to press ahead with this and some of the regulations are in fact already drafted and we will be pressing ahead over the coming weeks. As to the fee level a decision has yet to be taken although I recognise what the Honourable Member has said and certainly that would be part of the liaison.

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 GAMING (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL & DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill now be read a second time. The provisions of Section 5 Sub-Section 4 of the Ordinance has in recent times given rise to misunderstandings about the proper criteria to be used when considering applications for an exemption to the provisions of Section 3, 3A and 4 of the Ordinance, which otherwise prohibit the use of premises for gaming purposes. The object of this Bill is to place beyond any doubt that the whole question of the Gaming Exemptions is one which touches upon public policy that therefore it is quite proper for the Governor to seek the views of Government when considering how to exercise his discretion under the provisions of Section 5(1). The Governor has an obligation to consider each application submitted fairly and on its merits but must bear in mind Government's general policy on the matter, and this is what the Bill seeks to clarify. Let me emphasise that the Bill itself does not mean any change in the Government's policy on gaming. In particular it does not inhibit the well established policy of tightening and controlling the carrying out of gaming in Gibraltar. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

As far as I am concerned I have no difficulty with this amendment. Again I assume that there has been a particular example or issue which has given rise to this matter but even if that is the case I do not really think that is particularly relevant. I agree totally with the fact that it should be the Government of the day, despite all my

disagreements with it, that should determine policy in this area as in other areas which affects the economy. I therefore welcome this amendment which will clarify beyond doubt the fact it is the Government's policy to which regard will have to be had in determining who is exempted from provisions of the Gaming Ordinance.

HON LT-COL E M BRITTO:

We in the Official Opposition support the Bill, the underlying principle of the Bill. We were a little bit puzzled about the timing of it, Mr Speaker. A reference has been made by the Honourable Member to a possibility of an incident and calling it irrelevant. We thought that maybe the relevance of the incidence could be quantified by the Honourable Financial Secretary when he exercises his right to reply. That, in general terms, would give us some sort of idea as to what has happened that it has led to the need for this legislation now. But we will be supporting the Bill.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I thank Honourable Members opposite for their support for this Bill Mr Speaker. The need to bring the Bill forward this time I think simply arises from a number of applications that have been received recently that do suggest that there is some uncertainty as to the criteria that is to be applied when consideration is given to these exemptions. So it is in that spirit that the Bill has been brought forward at this time.

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

HON FINANCIAL & DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1989/90) (NO.2) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the 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 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 now be read a second time. This particular Supplementary Bill is slightly unusual, Mr Speaker, in that it contains sums covered towards the end of the year under contingency arrangements and it was a necessary expenditure in that it was important to the ongoing business of Government and formal appropriation of those sums is now sought. Other than that, Mr Speaker, and in accordance with normal practice, I will not make a speech on 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 put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills Clause by Clause: (1) The Gibraltar Development Corporation Bill, 1990; (2) The Public Utility Undertakings (Amendment) Bill, 1990; (3) The Supplementary Appropriation (1989/90) (No.2) Bill, 1990.

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

#### THE GIBRALTAR DEVELOPMENT CORPORATION BILL, 1990

MR SPEAKER:

There are quite a number of amendments to this Bill and some of them may be controversial. I think we have got to go Clause by Clause in this instance.

HON P C MONTEGRIFFO:

Mr Chairman, as far as I am concerned, since the amendments are quite extensive in certain respects, the view that certainly I will take is one which affects globally all the amendments. I would prefer, as far as I am concerned, certainly, to have one crack at the whip rather than coming piecemeal step by step. If that will assist the House then it would be quicker to get through our business. I would certainly prefer it that way. I am not sure how other Members on this side of the House feel about that. That is my preference, if not what I would have to do is simply stop Section by Section and make my point and that could be more tedious.

MR SPEAKER:

We have to do it Section by Section, I must remind the House that I will not allow repetition. If a point is made in one Section it is no good making it at every Section time and time again. We have had plenty of time to discuss the principles of the Bill and we did, I think, did it very extensively. So I am afraid I am justified in applying the rule of repetition strictly on this occasion and I will not hesitate to do so. To talk on these amendments globally, I think, would be extremely difficult and if any Member wishes to do that I will not allow him to carry on talking afterwards in individual amendments. If any Member wishes to speak globally perhaps he can choose that particular line, I certainly would have no objection. I do not know if the Chief Minister or the Leader of the Opposition have any objection to that.

HON A J CANEPA:

The Leader of the Opposition and his colleagues will do what Oppositions have been doing in this House since time immemorial. They will follow the normal manner in which we work in Committee because I have never known during the short period of eighteen years that I have been a Member of this House, I have never known any Member to speak globally to all the amendments but as I realise that we are in a period of change, I do not mind.

MR SPEAKER:

I think we must allow the Hon Member to use his initiative if he wants.

HON P C MONTEGRIFFO:

Mr Chairman, I am well aware of Mr Canepa's lack of ability to take innovation but having said that.....

HON A J CANEPA:

Mr Chairman, I would ask the Hon Member to measure his words very carefully and not to provoke me because if he provokes me he is going to get it very hard on the neck.

(Laughter)

MR SPEAKER:

Look after your neck!

HON P C MONTEGRIFFO:

I will be careful, Mr Chairman. In thanking you for allowing me to address all the amendments in one go, I do so because the amendments although they to a certain extent, go towards curing some of the points that were made in the House at the Second Reading, my view will remain that the GSD will still be voting against the Bill generally and therefore I will vote against every Clause on the basis that the amendments do not go far enough. The amendments, I would say Sir, are amendments really of minor significance inasmuch as the main thrust of the Bill remains unaffected. The Gibraltar Development Corporation which already as it stands has very, very wide objects and in fact, the objects here are being increased, if anything. We now have a specific reference to the human resources of Gibraltar also being a matter to which regard should be had as an object of the Corporation. The main areas which we were seeking to see amendments in, for example, as regards planning, remain, as far as I can tell, unaffected. There will be a specific planning regime for the Corporation different to other entities. It also has not been made clear publicly, despite the Chief Minister having been taken to task on this matter, certainly on more than one occasion, who is going to run the Development Corporation, who is going to be the Chairman of the Development Corporation and therefore I find it impossible to support the amendments when in fact the reality of how it is going to operate, the person who is going to head it has not yet been made clear because it is putting the cart before the horse. The whole situation as regards public accountability, still remains unaddressed in my view. There is no provision for accounts to be made available to this House or to Members of the Opposition individually. We still remain in the same situation of the Government receiving a Report about the Corporation's operations as well as its Accounts but no one else and for those reasons Mr Chairman, I will be voting against the Bill. I do so with a sense of regret Mr Chairman, as I am not opposed to the concept of a Gibraltar Development Corporation, if that Corporation were more specifically geared to a particular project or a particular area, as I think I have mentioned, for example, the Westside reclamation area. If the Government had said: "Well, in developing that particular zone we want to have the vehicle of a Corporation to allow a certain

Corporation to allow a certain flexibility in how we can get that off the ground", that would have been a different matter, but this appears to be too far-ranging and without further details it is difficult for me to accept it as it stands. For those reasons, as I say, I will be voting against each of the amendments, as a matter of principle.

MR SPEAKER:

I think that this is the right moment for us to recess.

The House recessed at 5.20 pm.

The House resumed at 5.45 pm.

#### ARRANGEMENT OF SECTIONS

HON CHIEF MINISTER:

Mr Chairman, in part 2 the word "Establishing" be omitted and replaced by the word "Establishment". That "Assumed Debt" be omitted and that Clauses 23 to 29 inclusive be renumbered Clauses 22 to 28.

Arrangement of Sections, as amended, stood part of the Bill.

#### Clauses 1 and 2

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 M P Nuñez  
The Hon P J Brooke

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 and 2 stood part of the Bill.

Clause 3

HON CHIEF MINISTER:

Mr Chairman, Clause 3, Sub-Clause (5) the figure "20" be omitted and replaced by the figure "27".

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 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 M P Nuñez  
The Hon P J Brooke

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, as amended, stood part of the Bill.

Clauses 4 and 5

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 M P Nunez  
The Hon P J Brooke

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 4 and 5 stood part of the Bill.

Clause 6

HON CHIEF MINISTER:

Mr Chairman, in Clause 6, subclause 2, that the following words be inserted after the word (area) and before the fullstop, "and by developing and maximising the effective utilisation of Gibraltar's human resources". Can I just perhaps say, Mr Chairman, since some of these amendments are of a technical nature and some are matters of substance, perhaps I can give an explanation on this one which is another of substance. The Government is committed, as part of its strategy, to introducing an Employment and Training Board and we are planning a major change of the Employment Ordinance and of the Training Ordinance. The House will recall that we introduced the Training Levy in 1988 and we set up the Employment and Training Unit which Members will notice when they have the opportunity to study this year's Estimates, that it has been moved from the Youth and Careers Section to the Personnel Section and, in fact, the purpose of inserting it this year is because given the difficulty and the delay that we have experienced in creating the legal framework for establishing an Employment and Training Unit I asked the Attorney-General's Chamber to look at whether in fact we could use the Development Corporation to undertake the functions of Employment and Training as well and just to be sure that the objects of the Ordinance and the objects of the Corporation provide for this we are effectively mentioning not just "the utilisation of land" but "the utilisation of human resources" because what we are talking about is using the Employment and Training Unit within the Corporation to plan manpower, to train manpower and to monitor its development as an integral part of regeneration and economic expansion of Gibraltar. Mr Chairman, there is a second amendment. In Clause 6, subclause (3), paragraph (d) a comma be inserted after "services" in line 3. That the word "to" at the beginning of line 4 be omitted. That the word "transport" be inserted after "internal" in the final line, and that the fullstop at the end of the paragraph be omitted and replaced by a semi-colon. And in Clause 6, subclause (5) that the word "and" is omitted at the end of paragraphs (a), (b), (c), (d), and (e).

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 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 M P Nuñez  
The Hon P J Brooke



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 6 as amended, stood part of the Bill.

Clause 7

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 M P Nuñez  
The Hon P J Brooke

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 7, stood part of the Bill.

Clauses 8 and 9

HON CHIEF MINISTER:

Mr Chairman, in the side headings to Clauses 8 and 9 the word "corporation" be given a capital "C". In Clause 9, subclause (2) the following words be inserted after the word "purposes" and before the fullstop: "and the provisions of that Ordinance shall apply to any compulsory acquisition of land by virtue of subsection (1) of this Section".

HON A J CANEPA:

Mr Chairman, we made some points during the Second Reading of the Bill as to our fears regarding the acquisition of land. I think it might be useful if the Chief Minister were to explain whether it does meet the point that we made and if it does not, in any case, what is the purpose behind this amendment?

HON CHIEF MINISTER:

Well I am not sure that it meets the point that they made, but it is one of the areas where the points that were made were looked at since the last meeting of the House and what we are doing is spelling out that the provisions in the Land Acquisitions Ordinance apply in the case of the Corporation in any compulsory acquisition of land. It was never intended that the Corporation should be able to acquire land compulsorily with more powers than the Government can anyway, but if the fact that it was not specified meant that there was a doubt well that doubt is removed by this amendment.

HON A J CANEPA:

We are voting against because we object to the Corporation being able to acquire land. We are grateful that at least some note has been taken of the point that we are making but, in principle, we are against.

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 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 M P Nuñez  
The Hon P J Brooke

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 8 and 9 as amended, stood part of the Bill.

Clause 10

HON CHIEF MINISTER:

In Clause 10, subclause (1) the words "directions given" be omitted and replaced by "regulations made" and the word "purpose" be omitted and replaced by the word "purposes". And in subclause (2) the words "by way of gift, mortgage or charge" be omitted and replaced by the words "without the consent of the Government".

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 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 M P Nuñez  
The Hon P J Brooke

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 10, as amended, stood part of the Bill.

#### Clauses 11 to 19

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 M P Nuñez  
The Hon P J Brooke

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 11 to 19 stood part of the Bill.

#### Clause 20

HON CHIEF MINISTER:

In Clause 20, subclause (2), paragraph (a) the words "without the need to appropriate be omitted and subclauses (3) and (4) be omitted.

HON A J CANEPA:

We are against the amendment, Mr Chairman, it makes matters worse.

HON CHIEF MINISTER:

Is the Honourable Leader of the Opposition interested in having it demonstrated that it does not make matters worse?

HON A J CANEPA:

Yes, we are.

HON CHIEF MINISTER:

The need to eliminate 3 and 4 arises....

HON A J CANEPA:

No, we are more concerned with (a).

HON CHIEF MINISTER:

Well, what we are removing from the existing Ordinance is the right that the Government had previously to provide money to the Corporation without having to bring it to the House and allowing the Opposition to vote. What I have just introduced gives the Opposition the right to vote which clearly they do not want to have because they have voted against it. We actually introduced that because the Hon Member opposite was saying last time that the Government is able to appropriate money to the Corporation without bringing an Appropriation Bill. We have now removed that right from the Bill and we have moved an amendment that requires that any money the Government gives the Corporation has to have an Appropriation Bill and therefore has to be brought to this House and has to be voted upon. It appears, Mr Speaker, that Hon Members do not want that because.....

HON A J CANEPA:

We have been reading it the wrong way round.

HON CHIEF MINISTER:

Well that is what they have just voted against Mr Chairman, and we are prepared to vote against it as well.

HON A J CANEPA:

I think, Mr Chairman, that these amendments have been circulated twenty-four hours ago and we are entitled to get things wrong sometimes. We received these yesterday morning, Mr Chairman, and we must always be suspicious of the Government. We are in favour of the amendment but we are voting against the Clause.

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 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 M P Nunez  
The Hon P J Brooke

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 20, as amended, stood part of the Bill.

#### Clause 21

HON CHIEF MINISTER:

In Clause 21, subclause (1), that the figure "(1)" be omitted and the words "and such guarantees shall not require a resolution of the House of Assembly" be omitted.

HON M K FEATHERSTONE:

I am glad to see that the authority of the House is being upheld for once.

HON CHIEF MINISTER:

Yes. I am glad to see that they understand that that is what they were previously voting against, Mr Chairman. In Clause 21, subclauses (2), (3) and (4) be omitted for the same reasons that I gave before. They no longer apply.

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 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 M P Nunez  
The Hon P J Brooke

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 21, as amended, stood part of the Bill.

#### Clause 22

HON CHIEF MINISTER:

I move that Clause 22 be omitted, Mr Chairman.

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 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 M P Nunez  
The Hon P J Brooke

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 22 was accordingly deleted.

### Clause 23

HON CHIEF MINISTER:

I move that Clause 23 be renumbered Clause 22. That in new Clause 22 subclause (1) the words "such sum not exceeding" be omitted and the following words be inserted in place, "or to a Special Fund under the Public Finance (Control and Audit) Ordinance such sum not exceeding in aggregate". And in Clause 22, subclause (2) the words "to the Consolidated Fund" be omitted; that the expression "Section 20(3)" be omitted and replaced by the expression "Section 20(1)(a) or 20(2)(a)", and do not ask me to give an explanation on what it is that we are voting on.

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 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 M P Nunez  
The Hon J P Brooke

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 23, as amended stood part of the Bill.

### Clause 24

HON CHIEF MINISTER:

I move that Clause 24 be renumbered as Clause 23. In new Clause 23 subclause (1) be omitted and replaced by a new subclause as follows: "(1) The Corporation shall establish a general fund and may establish separate funds, and in relation to any such separate funds, the Corporation shall make rules for the purposes for which such fund may be used, the manner in which such fund shall be administered, and for the revenue and expenditure of such fund". Can I just explain, Mr Chairman, that the reason why we are doing that there is again to make it clear that if we have the Employment and Training Unit operating within the Corporation then the funds that are for the use of the Employment and Training Unit will be kept separate from the rest of the funds of the Corporation. But it can be used for other things as

well. But that is the primary reason why we are doing it now because we have done the other thing in the original objects of the Bill. In new Clause 23 subclause (2), the following words are inserted after the words "general fund" and before the full stop, "and any separate funds".

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 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 M P Nunez  
The Hon P J Brooke

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 24, as amended, stood part of the Bill.

### Clause 25

HON CHIEF MINISTER:

I move that Clause 25 be renumbered as Clause 24.

HON A J CANEPA:

Mr Chairman, we are voting against this Clause, there is no reference to the House of Assembly. We are against it.

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 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 M P Nunez  
The Hon P J Brooke

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 25, as amended, stood part of the Bill.

Clause 26

HON CHIEF MINISTER:

I move that Clause 26, be renumbered as Clause 25 and the figure "25(3)" in subclause 2 (1)(b) be omitted and replaced by the figure "24(3)".

HON A J CANEPA:

Again, Mr Chairman, we have the situation where the Annual Report, periodic returns are not referred to the House, we are not given an opportunity to consider these matters and therefore we are totally against.

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 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 M P Nunez  
The Hon P J Brooke

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 26, as amended stood part of the Bill.

Clause 27

HON CHIEF MINISTER:

I move that Clause 27 be renumbered as Clause 26. That the present Clause be omitted and the following new Clause be substituted therefor: "The Government may make such regulations as are necessary generally for carrying into effect this Ordinance, and in particular, but without prejudice to the foregoing, may make regulations for all or any of the following purposes- (a) prescribing any fees payable to the Corporation in respect of any activity permitted to be carried out by the Corporation under this Ordinance; (b) prescribing where necessary procedures to be followed for the purpose of achieving or financing the objects of the Corporation or the exercise of its powers; (c) prescribing anything necessary to the operation of directions given by the Government under this Ordinance; (d) providing where appropriate, that contravention of a regulation shall constitute a criminal offence and providing for a fine not exceeding £500 on summary conviction in respect of such offence; (e) providing for such other matters as are reasonably necessary for or incidental to the proper administration of this Ordinance".

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 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 M P Nunez  
The Hon P J Brooke

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 27, as amended, stood part of the Bill.

Clause 28

HON CHIEF MINISTER:

I move that Clause 28 be renumbered as Clause 27.

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 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 M P Nunez  
The Hon J P Brooke

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 28, as amended, stood part of the Bill.

#### Clause 29

HON CHIEF MINISTER:

I move that Clause 29 be renumbered as Clause 28.

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 Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
Mr J C Perez  
Mr J E Pilcher  
Mr J M P Nunez  
The Hon P J Brooke

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 29, as amended, stood part of the Bill.

#### The Long Title

HON CHIEF MINISTER:

I am not amending The Long Title.

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 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 M P Nunez  
The Hon P J Brooke

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 J C Montegriffo  
The Hon Dr R G Valarino

The Long Title stood part of the Bill.

#### THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) BILL, 1990

#### Clauses 1 to 5

HON P C MONTEGRIFFO:

Mr Chairman, I am abstaining on the whole Bill.

HON A J CANEPA:

Our attitude, Mr Chairman is that on those which increase the penalties we will abstain. We have no particular reason to vote against and we will abstain on those. On the matters of substance we shall be voting against.

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 M P Nunez  
The Hon P J Brooke



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 5 stood part of the Bill.

Clause 6

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 M P Nunez  
The Hon P J Brooke

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 Dr R G Valarino

The following Hon Member abstained:

The Hon P C Montegriffo

Clause 6 stood part of the Bill.

Clause 7

HON J C PEREZ:

Mr Chairman, Clause 7 is amended by inserting after the word "amended" the words "by omitting the figure (1) and".

HON K B ANTHONY:

Mr Chairman, I have no objection to the amendment because we agree that penalties should be brought up-to-date. But the new penalties do not bear any relationship to the previous penalties, for example, if one was £5 and the other one was £10, they have not gone up automatically. Why the variation?

HON J C PEREZ:

Mr Chairman, to tell you the truth, I have not decided on the penalties. The Attorney-General's Chambers said that if we were going to change the Public Utilities Ordinance, because we were going to re-define Telecommunications, we might as well take the opportunity of updating the penalties. My first question was "has anybody been convicted under this Ordinance in the past?" The answer was "if at all, very rarely", but the insinuation being that because.....

HON A J CANEPA:

Not even the obscene telephone call?

HON J C PEREZ:

No, not even that one. Because the Ordinance is so tight that that in itself is a disincentive for people to break the law. I can only say that I have taken the advice of the Attorney-General's Chambers on this matter and it is not a matter that we have had any input at all because it is a legal matter.

HON K B ANTHONY:

Thank you, Mr Chairman. It is just that I was curious why it did not go up in proportion. It did not seem logical not to go up in proportion.

HON J C PEREZ:

I was right in thinking that what they are doing is following UK practice.

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 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 M P Nunez  
The Hon P J Brooke

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

Clause 7, as amended, stood part of the Bill.

Clause 8

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 M P Nunez  
The Hon P J Brooke

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

Clause 8 stood part of the Bill.

Clause 9

HON J C PEREZ:

Mr Chairman, I propose to amend Clause 9 by omitting the figure "£100" and substituting therefor the figure "£500".

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 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 M P Nunez  
The Hon P J Brooke

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

Clause 9, as amended, stood part of the Bill.

Clause 10 to 13

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 M P Nunez  
The Hon P J Brooke

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 10 to 13 stood part of the Bill.

Clause 14

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 M P Nunez  
The Hon P J Brooke

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 Dr R G Valarino

The following Hon Member abstained:

The Hon P C Montegriffo

Clause 14 stood part of the Bill.

Clause 15

HON K B ANTHONY:

Mr Chairman, just to clarify (1) sub-paragraph (a) service of the Agency magnetic, electro-magnetic, electro-chemical, electro-mechanical, etc. Does this refer to Cable TV by any chance by NYNEX?

HON J C PEREZ:

Mr Chairman, it does not refer to Cable TV by NYNEX. Schedule 2 is giving you the description of what a telephone service is. The fact that it would be the only operator to be able to run a cable television service will be the one that is running the Telephone Service is by the by, but it is not for the purpose of running a Cable TV Service. Broadcasting is omitted from the description. The only thing that a cable television service will do is carry the signal for a third party through the cable. It will not have the power to broadcast itself, until 1992 when broadcasting is liberalised.

HON K B ANTHONY:

Thank you Mr Speaker, it is just that the term 'optical' means in the telephonic sense, does this mean a television next to your telephone receiver.

HON J C PEREZ:

Mr Speaker, we are going to have such a good telecommunications system that there will be no need to meet in the House, we can all meet by television.

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 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 M P Nunez  
The Hon P J Brooke

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

Clause 15 stood part of the Bill.

Clause 16

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 M P Nunez  
The Hon P J Brooke

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

Clause 16 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 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 M P Nunez  
The Hon P J Brooke

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 Long Title stood part of the Bill.

THE SUPPLEMENTARY APPROPRIATION (1989-90) (NO.2) BILL, 1990

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

SCHEDULE

Part I - Consolidated Fund was agreed to.

Part II - Improvement and Development Fund

HON K B ANTHONY:

Mr Chairman, under Head 107, Telephone Service, the Approved Estimate stands at £550,000 and £108,600 is required? An increase of 19.7% which we feel is a rather large increase.

HON J C PEREZ:

Mr Chairman, there are different explanations in the different subheads as the Honourable Member can see. A lot of the expenditure is unforeseen expenditure as a result of the introduction of System X. There is however a breakdown and there are explanations for each of those subheads. If he has got any particular question on them I will try and answer.

HON K B ANTHONY:

Mr Chairman, it is just that we feel that the figure of 19.7% is a considerable under-estimation.

HON J C PEREZ:

Mr Chairman, the efficiency has been so great that we have done a lot of things that we thought we were going to do next year this year and that is why we are spending the money this year and not next year. There is no other explanation. The project is ahead of time. It is operational already.

HON K B ANTHONY:

Mr Chairman, for example, subhead 6, under Head 107, Earthing Equipment £50,000 is required, surely they knew they would need earthing equipment for System X.

HON CHIEF MINISTER:

If we do more work, Mr Chairman, we have more equipment.

HON K B ANTHONY:

Mr Chairman, this is earthing equipment, not ordinary equipment, it is earthing equipment.

HON J C PEREZ:

We need it to replace more cables than we thought we needed in order that System X would be compatible with the present system. For the introduction of the digital system there were a lot of cables that needed replacing so that the Exchange would function when the changeover took place and there were more cables needed to be changed than originally thought and more work was done.

HON K B ANTHONY:

Mr Chairman, I do not want to get into a technical discussion, it would not be fair, because I would win, but removing of cables has nothing to do with earthing equipment. Earthing equipment is earthing for safety purposes not replacement of cables.

HON J C PEREZ:

Anyway it was used with System X.

HON K B ANTHONY:

It is earthing equipment?

HON J C PEREZ:

Yes.

HON K B ANTHONY:

Underestimated by £50,000, I feel that this should not have been underestimated, it should have been foreseen.

HON CHIEF MINISTER:

If I had thought at the beginning of the year that the amount of old line equipment that would have to be replaced would be one that would cost £64,000 and they have now found once they started doing the work that it was not that, if it is underestimated I can tell the Honourable Member that it was not the Minister that did the estimating.

Part II - Improvement and Development Fund was agreed to.

Clause 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.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Gibraltar Development Corporation Bill, 1990, with amendments; the Public Utility Undertakings (Amendment) Bill, 1990, with amendments; and the Supplementary Appropriation (1989/90) (No.2) Bill, 1990, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Supplementary Appropriation (1989-90) (No.2) Bill, 1990, the question was resolved in the affirmative.

On a vote being taken on the Gibraltar Development Corporation Bill, 1990, 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 M P Nunez  
The Hon P J Brooke

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

On a vote being taken on the Public Utility Undertakings (Amendment) Bill, 1990, 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 M P Nunez  
The Hon P J Brooke

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 Dr R G Valarino

The following Hon Member abstained:

The Hon P C Montegriffo

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Thursday 24th May, 1990, at 10.30 am.

MR SPEAKER:

Before we actually do adjourn, as we know, the Honourable Mr Peter Montegriffo and the Honourable and Gallant Colonel Britto would like to raise now the question of the refusal by Government to allow £10,000 tax for home purchase deduction to an employee because his employer has failed to pay his PAYE.

HON A J CANEPA:

Mr Speaker, could I ask the Chief Minister, having regard to the fact that the delegation from Malta are returning late on Tuesday the 22nd, if it would make a lot of difference to the Government if instead of the House adjourning to Thursday the 24th, we were to adjourn to the Friday. Whatever work is done between now and the date of departure, Mr Speaker, we are going to have to go over that work again before we come to the House.

HON CHIEF MINISTER:

I am not very happy about Friday, Mr Speaker. I do not know whether it is worth starting the meeting on a Friday or it is better to wait for the Monday.

HON J C PEREZ:

It is a Bank Holiday on Monday.

HON CHIEF MINISTER:

Shall we make it then on Tuesday 29th May?

HON A J CANEPA:

If it is alright for the Government then even better.

MR SPEAKER:

So the House has agreed on Tuesday 29th May. Now I would like to point out to the House that the speakers have forty minutes.

HON P C MONTEGRIFFO:

Mr Speaker, conscious as I am of the constraints of time and although I gave notice in advance of Mr Britto, I am conscious also of letting him have his say and I also want to make sure the Government has a full opportunity to reply and even perhaps for us to have an exchange of views. I therefore wish to limit myself to about ten or fifteen minutes to allow Members on that side of the House to reply. Mr Speaker, the situation, as raised in my notice I think is well known, but just for the record, Mr Speaker, initially the matter had been drawn to the public's attention by Action for Housing that there was an individual who had not been given or allowed his £10,000 tax deduction under the Home Purchase Rules because his employer has not paid its 'Pay as you Earn'. The House will recall that the purpose of those Rules, introduced by the Government, was precisely to ensure that people buying a home would have the benefit of a significant reduction in tax as a one-off benefit, up to a maximum of £10,000, and that £10,000 figure would be a figure which could be set off against assessable income which would normally be due. I think it is relevant to refer briefly to the report as it initially became public. There is a quote that the Commissioner of Income Tax was supposed to have said "that they were withholding the allowance they, meaning the Government, because it was Government's policy to treat firms with tax debts in this manner". The report went on to say that Action for Housing had stated that the Tax Official had remarked that even if the firm were to pay PAYE of a particular individual his tax allowance would still be withheld since the Tax Office would require the company to settle all debts with them. The situation which the individual finds himself in therefore is one where through no fault of his own it appears that he is paying the price for a default for which the employer is responsible. You could therefore have a situation where in a same block in Vineyards, for example, you might have somebody who has been allowed his £10,000 allowance because he works for an employer that does not owe PAYE and the chap next door, who happens to have an employer who does owe PAYE, is apparently being affected and his tax allowance is not being allowed. My reaction when I read this and heard it the night before on GBC was that certainly this would be a very very detrimental step and I could not accept that Government would want that to continue and that therefore remedial measures, if such were required, should be taken swiftly to make sure that the

£10,000 allowance was a reality for everybody and not just for some who happen to be employees of companies who did not have a PAYE problem. The way that the allowance has been worked as far as I am aware is that most people have been claiming a rebate of tax so that the distinction, has to be drawn, Mr Speaker, between that allowance being credited for a future year when in fact nothing has been paid now to the tax office and money which is credited back from the tax for the last year of tax. For example, there have been cases where people have actually gone to the tax office and said, "in this year I paid so much tax but I want to get the allowance for this year so please give me back money which I paid" and in fact, as I understand it, quite a lot of people have been benefitting from that sort of provision. Now it is not clear in the report to what extent the Income Tax Office is not giving these people or this individual the £10,000 allowance? What exactly is meant? Whether the allowance would not be given to them at all or only the rebates in terms of tax that has not yet been paid? In any event, Mr Speaker, the point that is at stake here is a fundamental one, as I see it, of an individual's rights to benefit from the provisions which make Home-ownership attractive for him. It would be wrong, in principle, even if the law now or previous ruling given by the Commissioner of Income Tax have led to the situation, it would be unacceptable for the situation to continue whereby you can have two neighbours in Vineyards, one who receives the allowance in circumstances identical to the one next door that does not because that other person's employer owes PAYE. The whole thrust of these Rules, if they are to have the benefit which they were intended to have, was to really make Home-ownership attractive to more people and must not be detracted from. There must not be anything which in fact is going to interfere with the application of these Rules across the board to everybody who might want to make use of them. The position also arises but I do not want to make controversial the debate specifically on this issue, but the point does arise of course in respect of GSL and other public related companies which owe Pay as you Earn and where I assume that employees who have mortgages are not suffering the same problem. That is something which perhaps the Government can clarify. It would be quite wrong for there to be a situation where an employee of say GSL does get his tax allowance but an employee of the particular company involved does not. The reply of the Commissioner of Income Tax in today's Chronicle is basically the following, he is quoted as saying "I have not got the money so I cannot give it back". The Commissioner's view appears to be a simple one of saying I cannot return what I have never received. That view although logical, at face value, will serve to distort completely the social benefit which the Rules are intended to bring about and I would ask the Government to accept that in any situation of tax there is always a case of the Government owing individuals rebates. It is well known that individuals are owed in some cases one, two and even three years of rebates. There are also many situations where individuals owe the Government money

in tax. So we are involved constantly, Mr Speaker, in a balancing of money owed out and money owed in and in that global balance and equilibrium to penalise one particular set of persons because their employers have not paid their Pay as you Earn contribution is, of course, quite wrong. I think it is obvious, Mr Speaker, that as far as the individual is concerned he has paid his tax because the individual has had the money docked from his wage and he finds himself quite rightly aggrieved at finding out that a ruling exists barring him from making use of these particular Rules. Since all of us in this House are committed to Home-ownership I would urge the Government that when they reply they should extend their comments not just to explaining why, on a technical basis, the situation might have arisen ie because money has not been received or because there may be a Ruling that the Commissioner had previously arrived at, but rather to accept that if we find ourselves now in this position and it is the first case to have hit the press because other people might have accepted the position without saying anything, to accept that steps should be taken to remedy that position so that everybody gets the benefit of these Rules. I feel passionately, and I have said so in this House before, that the ability to own one's own house is a fundamental cornerstone of making people more committed to Gibraltar, of giving them a stake in our community and discriminations of this nature, which arise not through any specific attempt to discriminate against an individual, I am not alleging that until I hear an explanation, but effective discriminations do not help to get to a situation where we will have a much higher percentage of Home-ownership than is presently the case. Mr Speaker that is basically my contribution and I will make way for others to express their views.

HON LT-COL E M BRITTO:

Mr Speaker, it is obviously unusual for there to be two motions on the same subject on the adjournment, and in a way I suppose it is a clear indication, a clear signal, to Members opposite of the importance which Members on this side attach to the subject matter and I must stress, Mr Speaker, that there are two motions being debated. Because although technically we are debating the subject raised by the Honourable Member who has just spoken, as you announced earlier, Mr Speaker, I also gave notice on behalf of the Official Opposition that we wished to bring this matter up on the adjournment and it is only as you know through the technicalities of Standing Orders that lay down that the first letter of notice which arrives, even if only by a few minutes, is the one that is deemed to take precedence and is the one that is considered as being debated. I think it is important to say this, Mr Speaker, for the record, and also because inevitably there will be some repetition in what I will say because obviously I have not had previous notice of what the Honourable Mr Peter Montegriffo was going to contribute. I will ask you to bear with me on these repetitions. Nevertheless I will reiterate what he himself

said that we have agreed to limit the length of our contributions in order to give the Government as much time as possible to give us a detailed reply. Mr Speaker, the matter which we are raising is essentially a very simple one but it raises some very important points of principle and of individual rights. Indeed the case in question is one which has originally been identified by Action for Housing and is the case of an employee who has been named, the name is known, indeed the Company which employs him has been identified and is known and indeed the Civil Servant who dealt with the case in the Income Tax Department has been identified and his name is also known. However it is not my intention to deal with this matter as an individual case or indeed to disclose or identify the persons involved, but rather to deal more with the principles that it raises. It is a simple situation, Mr Speaker, and one which has already been explained in detail and which can be summarised rather quickly. It is simply that an applicant for the £10,000 tax allowance which Government grants to first time home buyers has been apparently refused on the grounds that the applicant's employers have not paid the Income Tax deducted from his employee as PAYE for the past two years. The situation under the law is equally simple, Mr Speaker. As we all well know, all income earners are liable to pay income tax. An employer has the legal right to deduct this tax as PAYE from the wages and salaries of his employees. The employer has a further legal obligation to pay to Government such PAYE deductions not later than the 15th of the following month and indeed any employer who fails to do this is breaking the law. The law is quite detailed on the subject and an offender can be taken to Court by Government for such breach of the law. It is equally clear, Mr Speaker, that in this case the applicant for the £10,000 tax allowance has himself in no way broken the law. In fact he has discharged his legal liability to Government the moment his tax was deducted from his pay as PAYE and in fact the irony of it all, I suppose, is that if PAYE did not exist then he probably would not have the problem which he now has because he would have been assessed directly by the Income Tax Department and presumably would have paid his tax direct to them and the problem would not have arisen. I said, Mr Speaker, that essentially it is a simple situation and essentially it is a situation which requires simple, clear and straightforward answers from the Government. I am going to put six questions to the Government to which I hope I will get detailed information. Firstly, is it true that the person who was named in the letter dated 23rd April, from Action for Housing to the Honourable Mr Baldachino as, Minister for Housing, has indeed been refused this £10,000 tax allowance on the grounds that his employer is in arrears with his PAYE payments to Government. Secondly, if this is so, was the Commissioner of Income Tax acting on his own initiative, or under the instructions from Government or any individual Minister? Thirdly, is it Government policy to withhold the £10,000 tax allowance from employees of firms who have tax debts with Government, and if so, in how many previous cases has this been done. Fourthly, is



Government policy in withholding, if indeed it is Government policy, this £10,000 tax allowance, is it any different when it concerns employees of GSL or other Government Joint Venture Companies in comparison to employees of firms in the private sector. Fifthly, if the firm named by Action for Housing in their letter dated 23rd April were to pay Government the full amount of the tax arrears of the employee in question, of that one employee, would his £10,000 tax allowance still be withheld until the firm cleared up all its other tax debts and finally, Mr Speaker, is it true that the Income Tax Department has refused to grant this person any further interviews until such time as his employers have cleared up their tax debts ie the whole of their tax debt? I must stress at this stage, Mr Speaker, that the AACR Opposition in no way condones the action of firms who deduct PAYE tax from their employees and then delay in paying this tax to Government. However we consider it nothing short of scandalous and totally unacceptable that the employees of these firms should be penalised in any way for the actions of their superiors over which they have no control. We call upon Government today to answer these six questions we have asked and to make a clear and unequivocal statement of their policy in this matter. What they cannot do today is to hide behind ambiguous and misleading excuses like the answer given to media questions that they were unable to comment because they do not have access to individual files. To start with, they do have this access to that information, because they gave themselves the powers to do so in December 1988, when they amended the Income Tax Ordinance and I quote from the relevant paragraph with the amendment to the Income Tax Ordinance which reads "Notwithstanding anything contained in this section, the Commissioner shall" and I remember with great detail the Chief Minister changing the "may" to "shall" at the suggestion of the Honourable Mr Peter Montegriffo, "the Commissioner shall at the request of the Financial and Development Secretary provide such information relating to any matter referred to in this section as the Government of Gibraltar may require for purposes of formulating their economic and fiscal policies of the Government". Neither can we accept, Mr Speaker, as a reasonable excuse that there is some law or rule or regulation or some obscure small print or precedent or previous decision somewhere that authorises such blatant discrimination against an individual's rights. We will not accept it because if such a regulation does exist, then the answer is very simple because it is a bad regulation and it has or it should be abolished or amended with immediate effect. In conclusion, Mr Speaker, we look forward to some clear speaking from the Government side, both in explaining their policy and in saying what remedial action they intend to take.

HON A J CANEPA:

Perhaps, Mr Speaker, I could just add, to the point made by my Honourable Colleague, the question of access to individual files. I think whether the Government have access

to individual files or not does not really matter, because this is just an individual case that has cropped up and could also crop up in future. There is a general policy, apparently, that unless the Government is in receipt from employers of monies that have been deducted under PAYE, the Government is not going to make what one might call a reimbursement to an individual tax payer of sums of monies which the Government says it has not received. So the policy is one of general application and if there is no validity in the point that my colleague has made, there is certainly no validity in the point that the Government has made, that they are not able to do anything because they do not have access to individual files. There is a general policy ie what is to be done about individuals who are first time home buyers, who make an application for this allowance and who may be employed by employers who owe the Government arrears of PAYE and of which money has been collected from the employee. I think that what has got to be kept in mind is that we have a PAYE system of collection that was introduced by the AACR Government in 1975. Now, Mr Speaker, if that was not in operation people would pay income tax only when they were assessed for a particular year. The arrangement previously used to be you were assessed for a particular year and you used to be sent a tax bill which you paid. Of course, prior to 1975, the tax commitment were very much smaller compared to what it is now and once salaries and wages started to increase dramatically we had to introduce the PAYE system. It also meant that we ensured that people would not get away with paying tax just by leaving Gibraltar. However if the old system were to operate then this would not happen because the individual in question would not be in arrears if he had not been yet assessed and once he had been he would of the last two years, by now have paid. I wonder, Mr Speaker, and I do not know whether the Government has taken legal advice or can take legal advice on the matter of an aggrieved person making an application to the Courts that he has discharged his obligation, his tax liability to Government, through his employer deducting his PAYE commitment and if that person were to make an application claiming his entitlement to receive the allowance then, I think and I am not a lawyer, and I am not going to give a legal opinion, but as a layman it would seem to me that that aggrieved tax payer would have a very very good chance of winning his case. Morally, he is certainly right even though legally he may not be. So what we are asking the Government is to give favourable consideration having regard to the policy of the Government on home purchase I think, Mr Speaker, that the matter needs to be very carefully considered and thought of.

HON CHIEF MINISTER:

I do not know how much time I have to reply, Mr Speaker.

MR SPEAKER:

I think I made a mistake when I said originally quarter past seven, but as I made the mistake, it stays like that. Perhaps I deliberately made the mistake, so you have till quarter past seven.

HON CHIEF MINISTER:

I certainly, Mr Speaker, could have saved the Members opposite a lot of time if they had chosen not to jump to conclusions and I think if there is a clear signal of their enthusiasm to bring this to the House, it is a signal of how infrequently they find something which they think they can attack the Government. That is what it is a clear signal of and I find it very odd that the Honourable Mr Montegriffo should say he wants to hear the Government's explanation before he condemns anybody when he spent a lot of time condemning us already. But, of course, they are going to get very clear-cut answers as always. I agree that it is scandalous that an employer should deduct money from a worker and not pass it to the Government and that, in fact, that worker should be penalised for it. All I can say is that the AACR has been converted to this view since they were kicked out of Government which, at least, is one more good thing about the fact that they lost the election. Because if there is a Government policy as is claimed by the Commissioner of Income Tax, I can give a clear and categorical assurance to this House that no such policy has been introduced since the 25 March of 1988 and therefore if the policy exists it must have been introduced by the previous administration. So either the Commissioner of Income Tax is lying and there is not a policy or he is telling the truth and there is a policy to which he has been working for a very long time because we did not know the policy was there and we could therefore not change it. Every day, Mr Speaker, every day I open files and I throw up my hands in horror at the inheritance we have had from the AACR and which I can only put right after I discover it, not before, because I am not aware that it is there.

HON A J CANEPA:

If the Hon Member will give way.

HON CHIEF MINISTER:

No, Mr Speaker, I will not. The Hon member opposite, Mr Speaker, has asked for plain speaking and he is going to get it, he may even regret having asked for it but he is going to get it. Let me tell the Honourable Member opposite, when the Income Tax Ordinance was brought in and when people started paying PAYE, this matter was brought to the House of Assembly by me from the Opposition benches. The Honourable Member should remember what kind of memory I have. And it was defended by the Government at the time, the AACR

Administration on the basis that it was technically and legally impossible to refund a payment which has not been received. It was not about home-ownership, but it was about many other things. If you had a situation where somebody got married and the wife had a child and the man went along to the Income Tax and claimed children's tax allowance, the Income Tax would say, "until we receive the PAYE from your employer we cannot take your word for it. We have to have it black upon white and we have to have the money", and that went on for many, many years and the only concession that I got the AACR to accept, and it is the only concession that is still in the law, and it actually arose from a situation where employees were thrown out of work because their building firm collapsed and they found that they could not claim unemployment benefit because the Government policy at the time was also that you could not claim the benefit if your insurance payment had not reached the Labour Department, notwithstanding the fact that the worker had had the insurance payment deducted. And as a result of pressure from me in this House and as a result of pressure from the Transport and General Workers' Union, the Government made the sole concession which is still in the law that in cases of liquidation the Government pays back money that it has not received. We have not introduced that policy, we have not done anything to change it. We did not give any instructions to the Commissioner and we do not even know what Mr Graffione said to Mr Gustavsson because it did not happen in a Council of Ministers Meeting and we were not there. So what we have is a situation where what we do know now, that we have investigated, is that Mr Gustavsson called on the Income Tax Department on February 19th or 20th, and the version that I have is that when they tried to explain the position to him, he went off in a huff. He then wrote to me in March, Mr Speaker, and I then asked the Department to investigate because in fact the Member is wrong. I cannot say: "send me Mr Gustavsson's personal tax file". I said when we introduced the amendment that the amendment was in pursuance of economic and social policies and I can ask for the list of all the people who claim tax relief in pursuance of our policy of home-ownership, but I cannot say: "I want one individual's income and I want one individual's tax liability", and I do not want to do it anyway. So he is wrong and I am right when I said that that could not be done. That is the interpretation of the law that the Attorney-General gives me and it is certainly the interpretation of the law the Commissioner of Income Tax has and it is the interpretation of the law that the Financial Secretary has. I have not tried to get anybody's file but I am assured that if I tried I would be refused. So the clear-cut answer the Honourable Member wants to his six questions is I do not know what was refused or what was not refused in that meeting. All I know is that the meeting took place in February, that I received a complaint from this man in March, like I do from many many individuals on many many issues, and I do what any Government would do. As a politician I said to somebody in the Department, "find out the facts of this case and let me know". Before

we had a chance to reply to the man, he had gone to Action for Housing. We then had Opposition motions. Well fine, but I am sorry Mr Gustavsson will have to wait for his case to be investigated and he will have to wait to get a proper answer. Because the last thing we want to do is for every irate taxpayer to solve his situation by having adjournment motions over every single grievance. As far as I am aware, from the limited information that is available to me, this person has already claimed the £2,000 tax allowance and received it, so therefore he cannot get £10,000 for a start. Secondly, the house only cost £9,000 in the first place, so there is only £7,000 left to get 100% of the cost price of the house, so he cannot get £10,000 for that second reason. Thirdly, the payments on which people can claim tax relief are the payments they make for the house. What somebody cannot do is go along and buy a house today for £100 and claim £10,000, so he can only claim what he has paid. The Income Tax is not clear about these details so they need to get him to produce information and establish to what he is entitled to and how much. The way that most people claim their entitlement in fact is not by a lump sum. The way that most people claim their entitlement is by a revision of their code and if someone is paying £10 per week mortgage and they upgrade his code by £10, then you pay £3 less in tax. So therefore the employer cannot keep the £3 because he does not take it away from his employee. That is the way that the man can get his £2,000 or £3,000 a year which is the only thing he can get, what he has paid. He cannot get more than what he has paid. So there is no question of him being deprived of any of this. Independent of that I have to tell the House that certainly we think that there is much wrong with the system because we are still in a situation where 1986/87 PAYE returns are being processed and if somebody comes along and says: "I spent so much on a house in 1988/89", it is impossible for the Income Tax Department to give him a refund because they have not yet got round to doing 1988/89. What we are doing to cure that, not because of Mr Gustavsson and not because of motions on the adjournment, and not because of Action for Housing, but because we think it is a necessary thing, we are spending a lot of money in computerising the Income Tax Department and we expect that when that is finished, and it has taken longer than we would have liked it to, it has been going on now for four months this year, but we expect that when that happens it will enable assessments to be done by computer and not manually and it will therefore enable .....

HON A J CANEPA:

If the Honourable Chief Minister will give way. In fact what the Income Tax Department, and I have a personal interest to declare, what they are doing in respect of claims for this allowance is that they are giving them priority. In my case for instance, I was assessed for 1987/88 and 1988/89 separately and the assessment for 1989/90, the current year, will be done almost immediately in the next tax year, so they are giving priority to applications for the home purchase allowances, quite apart from computerisation, that is being done.

HON CHIEF MINISTER:

Well that is something that the Commissioner must have decided to do on his own initiative. Presumably there is nothing in the law that tells him whose assessment he has to do first, but I can tell the Hon Member what we told him to do as a matter of policy. We said "Look, if you are unable to cope with the demand for people to get a refund as long as you are satisfied that there is enough tax there, then give the person 30% as a part payment of the tax refund". That is done in the knowledge that nobody that is able to buy a house is likely to be paying 30% tax and that is what we suggested to him was a way to meet the problem of arrears of assessments. Now it may be that, as the Honourable Member has said from his own personal experience, what they are doing is actually fishing out individual files and doing it. My understanding of the law and it may be that we need to change the law, I do not know, but my understanding of the law is that the Commissioner has no choice. That is to say, the Commissioner does not require a policy directive, the Commissioner cannot pay tax back to somebody unless he has received that person's tax or unless the employer has gone into liquidation. Now I can tell the Member opposite that this is not something that I am being told now, I am saying that I was told that in this House when I was in the Opposition and when the amendment was introduced in the legislation to make an exception for the company that is bankrupt, otherwise why do you need it.

HON P C MONTEGRIFFO:

If the Hon Member will give way. Mr Speaker, a few points. As far as the law is concerned, certainly my understanding of the situation is that the law does not prohibit the Commissioner of Income Tax from making a repayment in these circumstances, but I would like to, if I can because the nature of the rules are that in a few minutes the Chief Minister will have to finish, I would ask the Chief Minister whether he could focus on the point that even if we were to assume that there was a problem technically be it as a result of former directions given or be it as a result of the law which I do not accept, but be that as it may, would the Government accept as a matter of principle and I am not interested in the individual details of the person that thinks it is unfair, but would the Government accept as a matter of principle the need to rectify the rules to make sure that people in this situation generally should not suffer the treatment they are getting?

HON CHIEF MINISTER:

Mr Speaker, I have said categorically that no policy directive to do this has been given and no action has been given to correct it because in fact nobody in the Government knew that such a policy existed. However to change the policy may require a change in the law and we will have to look at it because I do not think you can have a situation where

you say, people will be able to claim a refund of the tax that has not been received by the Commissioner on the basis that the Commissioner presumably is satisfied and although he has not got it, somebody has got it without the Commissioner putting the company into liquidation to get the tax back, which is the position at the moment. Now in fact, in this particular case, this company owes arrears that go back to before we were in Government. They are actually up-to-date with the tax of 1989/90, it is the tax of 1987/88 that they have not paid and certainly there is no tax allowance for home-ownership that we have introduced which goes back to 1987/88. The effective date of the £10,000 tax allowance or if people had already claimed the £2,000 the difference of £8,000 can only be claimed in respect of payments made from the 1 July 1988 and consequently can only be offset against tax paid in these tax years. So I cannot really understand that there is such a problem but obviously the fact that this was brought to my attention in March and the fact that I asked for an investigation and a report means that the Government in this instance, like in every other instance, where any other citizen has a grievance takes action to investigate whether that grievance has got a solid foundation, whether it is an individual unique case or whether it is a case that has got more general application. Obviously if you have a situation such as this, it is a difficult situation to understand what is best because in fact in this particular instance, as in a number of others in the private sector, during the course of the year, the Income Tax Department and the Attorney General's Chambers have given the company more time when they have requested more time. They have not said "right we are going to go for you and get you to pay the tax". If they had Mr Gustavsson would probably be unemployed in which case he would have had his tax allowance but he would not be able to pay the house. The situation is that the authorities in cases of PAYE try to give the companies more time because it is in the interest of the Government, it is better if a company can be given more time and will pay the arrears than if the company is put into liquidation and at the end of the day the Government gets nothing at all. So as long as there is a chance that the company will recover, now there have been also allegations in this statement that the company is refusing to pay the PAYE for 1987/88 I imagine because they had some contract with the Government where the Government owes them money. All I can say to the House is that I know nothing about that and that is another of the allegations about which no doubt somebody will carry out an investigation and give me the facts. But from the point of view of the policy of the Government, the policy of the Government is clearcut. There is no such policy directive and if we find that people are being penalised, then the matter will be put right but as far as we know, there are already ways, within the existing system, where it can be done. That is to say, if what I am being told is accurate, then when Mr Gustavsson eventually gets his reply which he will get, not any quicker because

it has been brought here, because I think that will give the wrong impression, because then all that people would have to do is to bring motions here and they get immediate answers. He will get his reply in due course and as I understand it the reply will tell him how he has to go about claiming the allowance without feeling discriminated or penalised and so on with the existing system as it is. I am told that the system makes it possible. Now the collection of arrears of PAYE and whether one should close the company down if it does not pay is a totally separate issue but it is certainly an issue where the Government cannot simply allow a situation to go on forever although we believe, as far as possible, in giving people an opportunity if they have gone through a bad trading patch to recover if they are committed to paying those arrears and, as I understand it, the problem is a backdated one but the current payments are being made and therefore if the current payments are being made, it is even less comprehensible, frankly, because all I can assure the House is that there is absolutely no political involvement of any policy decision and any directive having been taken. If there is somebody who has gone to an office who may have got a good or an inferior or a bad reply which happens every day in the public service when customers deal with public servants and it happens every day in the private sector if you go in a shop and you get bad service. If you go in a shop and you get bad service you go looking for the shop owner and here we are the shop owner and people come looking for us. That is what this particular gentleman did and he did it in March and in April here we are debating it in the House. Well, I am afraid we cannot produce instant answers for each of the 20,000 aggrieved taxpayers because we are all aggrieved, none of us like paying tax. I do not. That I think is the position and I do not think I can be clearer than that.

HON P C MONTEGRIFFO:

Mr Speaker, will he give way?

HON CHIEF MINISTER:

No, I have already finished.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday 29th May, 1990, at 10.30 am.

The adjournment of the House to Tuesday 29th May, 1990, at 10.30 am was taken at 7.15 pm on Thursday 26th April, 1990.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

29TH MAY, 1990

BUDGET



TUESDAY THE 29TH MAY, 1990

The House resumed at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

The Hon P C Montegriffo

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

DOCUMENTS LAID

The Hon the Minister for Trade and Industry laid on the table the following document:

Legal Notice 37/90 Building (Development Control)  
(Amendment) Regulations, 1990.

Ordered to lie.

The Hon the Minister for Medical Services and Sport laid on the table the following document:

The Gibraltar Health Authority Report and Accounts  
for the year April, 1988, to March, 1989.

Ordered to lie.

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

The Employment Survey Report - April, 1989.

Ordered to lie.

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

- (1) Legal Notice 96/89 Rates of Tax Rules 1989.
- (2) Legal Notice 97/89 Investment (Deduction) Rules 1989.
- (3) Legal Notice 98/89 Qualifying Individual Rules 1989.
- (4) Legal Notice 99/89 Home Purchase (Deduction) Rules 1989.
- (5) Legal Notice 114/89 Income Tax (PAYE) Regulations 1989.
- (6) Legal Notice 39/90 Income tax (PAYE) (Amendment) Regulations 1990.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31st day of March, 1991, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. I will, Mr Speaker, be following the practice customary in recent years to confine myself at this stage with a short speech by way of introduction. I shall then make way for the Chief Minister to comment on the Government's policy with regards to budget formulation and specific aspects of the Estimate proposals. I look forward, however, to offering my comments and replies to the House during its consideration of the Bill.

Under the terms of this Bill the House is invited to appropriate a total of £70.12m in respect of the Consolidated Fund representing a reduction of 0.4% of the forecast outturn for 1989/90. The House is also asked to appropriate £30.142m for the purpose of the Improvement and Development Fund which doubles the projected 1989/90 outturn. The supporting details are set out in the Estimates tabled in the House on the 26th April. In funding terms when coupled with Consolidated Fund charges and projections for public revenue in 1990/91, the Estimates indicate a reduction in the balance of the Consolidated Fund essentially as the reserves available to the Fund to £2.7m. This compares with the forecast of £7.3m at the end of 1989/90 and an actual balance of £11.3m at the end of 1988/89. One point I would like to draw Members' attention to is the reorganisation of a number of Departments reflected in the Estimates before them. In order to provide as much of a guide as possible, footnotes have been included at the end of each of the affected Department's Estimates indicating the nature of the change that has taken place. If I could now clear a few technical matters relating to the Bill, Members are well aware that it has been Government policy in recent years not to submit a Finance Bill in coincidence with the Appropriation Bill. This practice is again observed this year and it is therefore not necessary for me to table a revised summary page to the Estimates. However, Members will have received new versions of pages 7.11.1 and 7.22.1 in replacement of the pages' proposed numbers in the copies of the Draft Estimates. The first relates to the Labour and Social Security Department and

corrects an omission in the original version. Entry no.25 of the Establishment which relates to the staff in the Industrial Training Units in 1989/90 had been left out even though last year's total staff of the Department was correctly shown. There are no changes in the amounts provided under personal emoluments. Similarly the new page 7.22.1 at the Department of Trade and Industry now includes under entry no.10 of the Establishment one post of PSG'D' which was omitted in the version first circulated. Again, there is no need to change the personal emoluments provision. I apologise to Members for these omissions and perhaps I should emphasise that there is absolutely no connection between them. I should also like to state that the Head of the Estimates preparation team, has through his retirement, contributed in a very direct way to the curtailment of public expenditure reflected in the Estimates now before the House. More appropriately, I would like to record my sincere thanks to Mr Olivera for his extremely supportive role since my arrival and the professionalism and dedication he has shown in putting together what has been an increasingly complex exercise over many years. With that, Mr Speaker, I make way for the Chief Minister.

MR SPEAKER:

In accordance with Rule 32A the Chief Minister should follow the Financial and Development Secretary.



HON CHIEF MINISTER

Mr Speaker,

Before I explain to the House the position regarding the sums that we are appropriating for Government spending for this year and the inter-relationship between that and the performance of the economy, I want to deal as I promised I would, with some of the issues that were raised at Question Time about a number of variables in the measurement of the economy. In my contribution to the Appropriation Bill last year and in my first contribution when we took Government in 1988, on both occasions I drew attention to the limitations that there were on the reliability of the published statistics and the need that the Government had, for example, in order to proceed with the Economic Development Council the need the Government had to produce better quality statistics than had been done until then. In order to be able to do this I pointed out that we needed to computerise many sections of the Government which have been an on-going objective reflected in the Appropriation Bill last year and this year where fairly large sums have been provided in the Improvement and Development Fund for this purpose. However, the computerisation has progressed very slowly and therefore our systems are still predominantly manual. That has an impact on the quality but it has got an even greater impact on the length of time that it takes to get the final picture of the state of the economy and here we are, where even today we do not have final figures for our first year in Government. In looking at the way the national accounts were compiled and published, what the Government did was to enlist the services of Mr Harry Fell who Members opposite will know, who was in fact contracted in the 1970's, I believe, to produce the Census of Gibraltar and, in fact, he is a man who is considered to be a world authority on the compilation of national accounts having been engaged in advising both the United Nations and the World Bank in this respect and having himself served for many years as Chief Statistician for ODA. He visited Gibraltar in October last year and recommended a number of changes in the compilation of our accounts which we are incorporating and which will be reflected when the statistics get published in the Abstract of Statistics and these changes will be done retrospectively, otherwise what we would have would be, that as we measure changes from now on, we would not really be able to do comparisons with the past if in the past the figures have been arrived at in a different way from what they are going to be arrived at now and consequently we would not be comparing like with like. So the figures that I will give today, which will be essentially an attempt to give some of the information that was requested in Questions 84 and 85 in the House, will be reflecting the recommendations of Mr Fell which will be incorporated in our published national accounts data.

Perhaps Mr Speaker, I can briefly explain to Members what it is we are doing when we are measuring national income and what are the established methodologies for doing that and which are the ones that have been used here in the past

and which are the ones that we are going to be using in the future. Basically, what we are doing is estimating the output of the economy and there are three ways of measuring the same thing. One is effectively to aggregate the process of wealth creation by looking at the output of factories and other manufacturing units, which is not the system that is used here but is a system that is used in a number of countries. It has never been used here, we have no intentions of using it for the obvious reason that we are predominantly a service economy and you cannot adequately obtain information on value added in a service economy. Where you do not have movement of materials in and out of the manufacturing process.

The second way of measuring it is effectively to add up everybody's incomes. And the third way of measuring it is to add up everybody's expenditure and really the three should come up with the same result. They do not, they have never done so here, they have never done so anywhere, because the collection of statistics is not 100% perfect. We have tended to use as our measurement here the expenditure method of calculating the national income and therefore the published statistics are based on the expenditure method. Harry Fell's recommendation was that we should use in Gibraltar's case, the income method as opposed to the expenditure method because in fact the income method in Gibraltar's circumstances is considered to be one which will give us a higher level of accuracy. Obviously, this is particularly so now that we have an open frontier with Spain because if we are looking at the expenditure in the Gibraltar economy with an open frontier, we have great difficulty in measuring the expenditure that is made by 3 million visitors in Gibraltar and the expenditure that is made outside the economy by people who earn their living in the economy and therefore when we are looking at the performance of the domestic economy the element of expenditure that is attributed to that flow of spending in and out from residents outside and from non-residents inside is little more than guesswork. Whereas if you measure the income which is reflected in earnings and which is reflected in tax returns and which is reflected in company accounts then you can be sure that that is, if anything, likely to be understated because nobody is going to go round claiming that he is earning more than he really is in order to volunteer to pay more tax than he really is. So the income method is likely to be one which gives us a greater degree of accuracy and in fact it is obvious by looking back over the years that the gap between the expenditure and the income method has got worse since the frontier opened than it was in the past. The other element, of course, is that when you are talking about the expenditure method, again we have done a fair amount of research in this since we had the recommendations of Harry Fell last October and where the predominant factor in incomes is personal earnings as it is in Gibraltar, you sometimes get the effect showing in the economy in one year in incomes and in a subsequent year in expenditure as the money comes in and then gets spent. So if you look, for example, at the years when the effect of parity came in you see incomes shooting up first and then as a percentage the following year, incomes, in fact, virtually

stagnant or even with a slight decline because they did not keep up with inflation and nevertheless expenditures shooting up because we all know how, in fact, the impact of the pay reviews and the back money went through the economy when it came into the public sector when the money was paid out and then intended to hit the private sector subsequently through consumer spending, and of course all that needs to happen is that somebody gets paid in March and spends the money in April and it appears in one financial year in the income side and in a subsequent financial year in the expenditure side.

The other and the more significant change produced by the recommendations of Harry Fell was the treatment of the MOD in the local economy. Essentially two measures of economic activity are used internationally which are the gross domestic product and the gross national product and the basic difference between the two is that in the domestic product you are counting everything that is produced, in terms of goods and services, the value of everything that is produced in the territory, whether it is produced by residents or non-residents. So the gross domestic product is the output, the product of the territory of Gibraltar, or the United Kingdom or whatever. The gross national product is the products of the people who live in the territory wherever they produce it, so that you have got a situation where you count in GNP the output of somebody who may, in fact, be producing that output outside Gibraltar, if Gibraltar is his place of residence, and this is where he brings his earnings back to. In our situation with an open frontier and an increasing commuting workforce, obviously the contribution of the wealth in the territory is more important to measure than the contribution of the wealth of the people who live here because you would have to disregard all the people who do not live here but who may nevertheless be making an important contribution to economic growth and therefore the performance of the economy would not take into account the input of frontier workers if you are measuring it according to GNP and therefore again the advice we got is GDP is a better measure to use.

We then look how we were using GDP in the past and for reasons which are not very clear the way that the MOD was treated in the published accounts was that it was not included in the gross domestic product. So therefore instead of the output of the people employed by the Ministry of Defence being conceptually measured as being output produced in the territory of Gibraltar and exported to the United Kingdom and therefore forming part of the territorial output and therefore part of the gross domestic product, it was in fact included in the GNP and it was treated not as if we were producing something here and selling it to UK, but as if we were commuting daily to work in UK and the MOD was treated as being outside the economy of Gibraltar and therefore reflected in GNP and not reflected in GDP. If we were not to adjust that, Mr Speaker, and at the same time accept the recommendation that GDP is a more important measure than GNP because we have got, an increasingly large commuting

workforce, then what we would be doing would be we would be showing in the movement of the GDP the increasing influence and contribution of commuting frontier workers but we would not be deducting the reduction in the MOD because the MOD was never put in GDP. We would then be creating a false picture of economic growth because the economic growth would be reflected to the growth of the private sector but would not be net growth, it would not be minus the decline of MOD. So the change therefore will be that GDP will be used whenever we talk about economic growth as opposed to GNP because we are convinced that GDP, which shows the movement of frontier workers, gives us a better reflection of what is happening in the economy. Secondly, the way GDP is calculated will include the Ministry of Defence, which before it was not included, and this will be reflected retrospectively in the published statistics in the next Abstract, otherwise we would be showing a sudden jump out of nowhere because we were including MOD this year and not before, so we have to put it in the past and therefore that will show that the GDP growth is the growth after taking into account the contraction of MOD which is a more conservative, but a more accurate way of doing it. The other element is that the figure that will be published will be showing the estimate of GDP brought about by the sum of incomes and not the sum of expenditures for the reasons that I have already explained.

Having given that as the background Mr Speaker, I have got some charts which show, if they can be distributed, there are two transparencies. One is a bar chart which shows the GDP based on the income method inclusive of the Ministry of Defence, as I have already explained, and without adjusting for inflation. I have had these graphs and the underlying information calculated by the Economic and Statistics Department in the limited time available because as I explained in Question No. 84 when the Honourable Mr Montegriffo asked me what was the breakdown of the contribution of each sector of the economy to GDP for the years 1981 to 1988/89 and the projection, as I said at the time. The information that he was seeking did not exist and the information that I am giving him now is the closest that we can come to producing that kind of analysis (a) in the time available and (b) with the data available and stored in the Economic and Statistics Department. In fact, as I already explained, the GDP measured now is a more accurate now than the GDP measured in the past for the reasons that I have explained and which were incorporated on the advice of Mr Fell. If we look at the chart of GDP, this shows how the economy has progressed since 1975/76, the data before 1975/76 is totally unreliable because as Members opposite will know, they were in Government at the time, these were the years when there was widespread industrial action in the fight for parity, and Employment Surveys did not get done and the compilation of statistics is very haphazard and there are gaps there which were filled on pure guesswork. In any case the pre 1974 pay levels were all altered with retrospective effect from 1975/76 and therefore, again, you get very big jumps in the years from 1972 to 1976 which do not reflect the normal performance of the economy. The performance of the economy in this period

from 1975/76 to 1988/89 shows, in fact, a situation where the growth has been somewhat pedestrian given that it is a very long period because, of course, these are not an indicator of real growth, this shows the effect of the value of the economy from one year to the other but without adjusting for inflation. We do not have yet the inflation adjusted figures.

The second transparency which can be superimposed and if members align the transparency so that the red line, which is the trend of the GDP, matches the top of the bar chart, then I can give what is the closest to a breakdown of the contribution of each sector but I have to make clear that this is not what it is. This is as close as we can come to because in fact when we are looking at different sectors of the economy we can only do it by measuring the expenditure in those sectors and, as I explained already, the GDP figure is based on income not on expenditure and when you are looking at the expenditure pattern you need to make an adjustment for the proportions of that expenditure that uses up services produced in Gibraltar as opposed to using up goods imported into Gibraltar, so that the fact that expenditure goes up does not necessarily mean that incomes go up by the same amount because part of that expenditure is income for somebody else outside our economy who is exporting to us. So the trend lines are trend lines and are not sectors of the GDP but it gives us some indication of the influencing factors on the pattern of the economic development of Gibraltar.

The brown line, Mr Speaker, shows the MOD expenditure and I think what is clearly obvious from that is that MOD expenditure has been virtually stagnant since 82/83 in money terms, which means that it has been declining in real terms, which means that it has been providing a decreasing proportion of our national economy and all that one needs to do is to say look at 1981/82 and see the significance of that brown line against the height of the bar chart and look at 1988/89 and we see that the brown line is the same distance from the bottom but of course the bar chart is now twice as high. It does not mean that it is that proportion of the bar chart but it is a very clear indicator of how we have got stagnating MOD spending in an expanding economy and consequently a declining significance of the MOD for the economy of Gibraltar.

The next one that I would like to draw attention to is the purple line which is the investment programme of the Government of Gibraltar and that is, to all intent and purposes, the Improvement and Development Fund. We see how in 1981/82 there was one year where there was quite a high level of spending under the previous administration in the Improvement and Development Fund, which peaked and then the Improvement and Development Fund, like the MOD, has been virtually stagnant in money terms which means declining in real terms. Therefore we see from 1983/84 until 1987/88 a situation where the Improvement & Development, which was spending about £4 million a year, was effectively contributing less and less to our national economy. In fact here we are talking about gross domestic fixed capital formation. That means that we are

not looking at a situation of improving the capital stock of the economy because the figure is gross and not net and therefore we are not deducting depreciation. Frankly an expenditure on capital formation of £4 million a year in my view would do little more than keep the capital stock intact and compensate for depreciation if we had in fact net domestic capital formation I would not be surprised if some of those years were minuses, if we were to remove the depreciation of the existing stock from the expenditure of the £4 million. Obviously the 88/89 figure which is still very low but which shows a very marked increase compared to the previous years, is the reflection of our first budget were we doubled expenditure in the Improvement & Development Fund from £4m to £8m and where the emphasis is going to be. So we would expect that that would be a very fast growing element in the national economy because that is the declared policy of the Government.

I think it is interesting to see the green line which is, in fact, the non-Government investment in the Gibraltar economy, primarily the investment by the private sector, there is a little bit of investment by the MOD as well in there but this is predominantly private sector investment, where we see very clearly how it was virtually non-existent until 1983/84 and then it started shooting up in 1984/85 which is, of course, when people started investing in property in Gibraltar following the opening of the frontier. The trend is very clear. It more or less levelled off in 1987/88. The new developments that were agreed by us with the private sector have not yet shown and we would not expect that to show until the figures are available for the forthcoming 12 months, in reality the bulk of the new private sector development is only now coming into the economy and will only now be showing up in the national income statistics and in the employment figures for the construction industry.

The orange line, Mr Speaker, is the Government's final expenditure on the consumption of goods and services. That is the figure of the amount of resources that are absorbed by Government operations and it is the net figure after deducting transfer payments. Because, obviously, if the Government gives somebody supplementary benefits then the money is spent by the person receiving supplementary benefits not by the Government, so that does not count as Government spending because it will show up when that person spends his money on consumer goods and shows up as consumers' expenditure. We see that the situation has been that the expenditure of the Government has been increasing more or less in line with the increase in the economy, some years slightly less, some years more but there is clearly a relationship and that relationship has been altered in 1987/88 and in 1986/87 I think because those are the years where the private sector investment starting making a bigger impact and therefore you had a bigger economy as a result of the private sector investment. The position is that in our first year of Government the trend was still going up. Members will recall, of course, that in our first budget all that we did was in fact to simply rubber stamp the Treasury

allocation for 1988/89 and I think what that reflects is that that level of Government spending was still on an upward trend although not as can be seen, as high a trend as consumer spending, but we would expect in future years that to level off as a result of the policies we are introducing.

So in terms of the projections for the future that the Honourable Member asked me about in Question No 84, we think the total impact of the expenditure of the Government of Gibraltar on the economy will be about the same as it has been in the past but the composition of that income effect will be altered by its constituents in terms of expenditure and therefore, essentially the Government will be buying in the Gibraltar economy, we anticipate, about the same proportions of resources as it has done in the past but it will be using more of those resources in gross fixed domestic capital formation and less of those resources in recurrent consumption and we expect that as the orange trend line flattens the purple trend line will keep on increasing but the two taken together will not be dramatically different in relation to the growth of the economy from what it has been in the past.

We also expect that there will be a change in the trend of the private sector investment which is seen as flattening here, and the flattening there, of course, includes the declining MOD, because MOD is included in that figure since that is a residual figure that is fixed investment in Gibraltar minus that done by the Government, so it is that done by everybody else which includes MOD/DOE and private sector. Since MOD/DOE are going to be decreasing their investment, we expect that line, in fact, to show quite substantial increases over the next two years notwithstanding the decline in the MOD capital investment because the private sector capital investment with the developments in Westside and on the reclaimed land will be more than enough to compensate for any cutback and, in fact, to maintain the very high rates of growth produced immediately after the opening of the frontier.

The level of MOD spending will, in fact, not keep its value even in money terms after the withdrawal of the Resident Battalion and therefore in 1991/92, what we will see is that the brown line will not just be stagnating whilst everything else is going up but will actually be going into decline. We expect the blue line which shows consumer expenditure to be maintaining its correlation with the growth of the economy as a whole because there will be an increase in numbers employed and there will be an increase in incomes. Therefore looking to the future the reflection of the high rates of growth we are projecting for the next few years can be correlated to three elements consumer spending which could be a reflection of higher earnings and more people employed; private sector investment, which will be a reflection of projects that have already been approved; and Government Improvement and Development Fund expenditure, which will be increasing substantially and more than compensating for declining recurrent expenditure.

Mr Speaker, I hope that Members appreciate that the available information that we have got is, in fact, not perfect and that in no economy in the world is it possible to get 100% accurate statistics because it is not just a question of processing the information but of receiving information that people volunteer, whether we are talking about Employment Surveys or whether we are talking about tax returns or whether we are talking about company accounts. We are convinced that the work that the Statistics Office has put in train already and that the computerisation of insurance records and tax records will give us as good a picture and as accurate a picture as anybody can produce anywhere else in the world and that therefore we shall be consistently mapping a reflection of what is happening in the economy and enable us to take sound decisions in the knowledge that the statistics that we are putting together and which we are making public are a reflection of what is happening in the real world. I think we are fortunate in Gibraltar, because of the smallness of the economy and notwithstanding the fact that the movement of people in and out is so great now that it has become a more complicated exercise, we have got a number of independent ways of testing what is happening in the economy and as long as those indicators all point in the same direction then we can be sure that we are accurately mapping the movement in economic variables.

Therefore, turning to the Estimates of Expenditure and the strategy of the Government, as I have just said in relation to the analysis of the economy, the policy announced in 1988 and reflected in 1989 will continue to be the one that we pursue as the only solid basis for our economic development. Let me remind Members, as I have already said by reference to the charts that we were talking about, essentially is re-deploying human resources which is reflected in cash terms, away from recurrent consumption into capital formation and the recurrent expenditure will be kept very tight at the same time as the capital spending in the Improvement and Development Fund is dramatically increased. Without that we do not think we have an economic base, unless we do that, we will not create in Gibraltar an upgraded productive infrastructure capable of making Gibraltar competitive with other people. People will not come here because they do not have to, they will only come here because we are better than others. We will not be better than others unless we have got top class facilities. We are not going to get top class facilities unless we spend hundreds of million of pounds. There is not any other way of doing it, it cannot be done on the cheap and therefore the essence of the strategy of the Government is the Improvement and Development Fund. The rest of the Estimates of Expenditure are just what it takes to keep the show on the road, frankly the more effectively we can do this by employing less people and spending less money the better for all of us because at the end of the day there is a level of services that we have to maintain in certain areas, as a Government, which need to be done by the State because they cannot be done by the private sector but the essence of the Government is the management of the

economy. Unless the Government is managing the economy properly then the Government will not be able to produce those services because it will not have the money to do it. There is no choice because it is not a question of whether we want to create an alternative economy to the MOD, we have to create an alternative economy because there is not going to be an MOD.

Obviously it means that the job is much tougher than it has ever been in the past. It is tougher because we no longer have a monopoly situation and a captive customer, that is the truth. The reasons for the MOD presence in Gibraltar are political and military reasons not economic, it is not that they have a naval base here because we are cheaper than somewhere in the United Kingdom, it is because they want it in this particular part of the world. Irrespective of whether we are cheap or expensive they want one here.

If we gave it to them for nothing and if we subsidised it, if they do not need it they do not need it, period. So we have got a situation today where fundamentally what we have been historically has been a one crop economy and our crop is coming rapidly obsolescent by the day. The events in Eastern Europe impact on our economy very directly, Mr Speaker, in two respects. I remember that the previous administration used to have, over a number of years, a world view produced by the Financial and Development Secretary as to what was happening on the world scene in terms of devaluation and unemployment and the inflation rates and interest rates but in reality where we were virtually all employed by the Ministry of Defence, none of those really mattered. What we are seeing today matters in two fundamental aspects. The reduction of world tension and the reassessment of the military risks in Europe and of the threat of the Warsaw Pact and of the future of the Eastern block countries, all those have an effect on the value militarily and strategically that Gibraltar has. Although we must welcome, as human beings and as Europeans, the removal of tension in that area and the removal of the potential risk of nuclear war and all the rest of it, the reality of it is that the more all those risks go the less we have got a product to sell and we must not blind ourselves to that reality. The second thing is, of course, that the opening up of markets and economies that have been stagnating for the last sixty years means that we are now competing, not just us, Spain and Portugal and everybody else in Europe and the Third World, are now competing for a pool of money which is not growing and that pool of money, that international capital, will go where they are going to make the biggest profit and the potential for profit is greater where there has been least development. In many respects our potential for profit is part of that. If we had been developing Gibraltar for the last twenty years at a very high rate, it would be increasingly difficult to squeeze any more out of it. If we have not then it is much easier to put new, big projects in and if we get a lot of land that will become easier still. But getting the money for those developments will become tougher and interest rates are likely to be high because that if the price of money and the more

people want to borrow the more the people who are in a position to lend can ask for a high price for the commodity that they have available, the same as any other commodity affected by market prices.

So we will find ourselves in a situation which is really where our economy is vulnerable. We will find ourselves in a situation where on the one hand, what we have sold traditionally can no longer be sold as easily because it is no longer so much in demand and what we want to buy, which is capital for investment, a lot of other people want to buy and we are caught in the classic dilemma of developing economies, switching from one product to another product because the product that they produce on the world markets is facing declining prices and not having the foreign exchange, not having the resources, to carry out investment and therefore having to go down a road of needing an influx of outside investors to get them over the hump. If in fact we have an independent currency of our own that will be reflected in serious balance of payments problems because this is reflected in our borrowing capacity. Mr Speaker, I think I will deal with that and the impact of that on the expenditure of the Government when we return.

The House recessed at 11.30 am.

The House resumed at 3.20 pm

HON CHIEF MINISTER:

Mr Speaker, when we recessed before lunch I had got to the point of drawing attention to the fact that in an economy with its own independent currency, high rates of growth which require financing can lead to balance of payment problems which do not apply in our case but that essentially the source of the finance is the same which is investment from outside the economy given the limitations of increasing investment from within the economy which, effectively, would require a very substantial increase in the savings ratio. In the case of the Government of Gibraltar and, indeed, in the case of the private sector, in fact, the high rates of gross domestic fixed capital formation that we are projecting as the cornerstone of the economic development over the four year period is, in fact, being financed by loan capital. This is true of us as a Government and it is true of the private sector where, as I mentioned before in relation to the chart, the first year does not yet reflect what we expect to be a very substantial increase in years two, three and four. So the analysis after the review of the compilation of national accounts using an upgraded methodology that gives as a better reflection is that notwithstanding the fact that we will be reflecting the cuts in MOD between now and 1991 and after 1991, the Government is still projecting real growth in GDP over four years of 50%. And what we are saying is the figure which is the baseline is something like £152m and not £115m as was estimated in the published Abstract of Statistics for the GDP figure. What we are doing is saying we are starting from a higher base rate because we have revalued all the figures under the previous administration. We are

expecting that higher base rate to reflect cuts in MOD but we are, nevertheless, still expecting to achieve 50% real growth on top of that base. The final figures for 1988/89, even though we are two years down the road, are still not 100% certain but it is not likely to be significantly different from the figure of £175 million which is reflected in the chart that I have circulated. Therefore what we are saying is, real growth in the first year has been of the order of 10%, and we expect real growth in years 2, 3 and 4 to get even bigger, to achieve the 50% over the four years, obviously.

In our first year gross domestic fixed capital formation has been, we calculate, about 20% of GDP which makes it £35 million. We would expect to keep gross domestic fixed capital formation in the range of 20% to 25% of GDP over the four year period and, in fact, all high growth economies have investment ratios of this order. That is to say, if we look at the performance of other economies that have achieved high growth rates they have all had of the order of 20% of the national economy going into fixed investments and if we look at the economies that have grown slowly, then one of the characteristics is that they have all had a low rate of investment. The United Kingdom being a case in point. So obviously at any given time one could slow the economy and one could reduce capital formation and one could increase recurrent consumption, but only at the expense of future growth and future incomes and consequently the security of the future standard of living. The Government is clear that the priority must be, since what we are doing is replacing the Ministry of Defence by a new economic structure, the priority must be capital investments. And therefore it is to the development programme of the Government that we must look as a reflection of Government policies. In our first year we announced plans to spend £56 Million over the 4 year period, we upgraded that last year to £70 million, we are now looking at something like £75 million over the 4 year period and Members will recall that, in the first Budget immediately after the election when I gave 4 year projections, I said "this is not a four year Appropriation Bill or a four year Estimates of Expenditure, these are forward projections which every year we will go back and re-examine, and either will go up or go down." At the moment what we are saying is that we expect over the 4 year period to spend £75 million in capital investment financed from our own resources partly through savings in the recurrent spending.

In fact, if Members look at the Estimates of Expenditure, I think there are two particular elements that I want to draw their attention to. One is the amount of money that we are providing this year for the wages and salaries review which is £4 million, that is on page 7 in the summary of expenditure, subhead 25, that compares with a sum we put in last year's budget of £2½ million and which we eventually found was insufficient and we budgeted supplementary funds for £700,000 bringing it £3.2 million and in fact even there we found ourselves running short, so that in some areas the money will be rolled over into this financial year and be paid in retrospect. The £4 million in the budget is based

on a wage and salaries bill of about £42 million and with settlements in the UK running on average of 9%. We think we are going to spend the £4 million and what we have tried to do this year, in this particular area, is put in a figure which will cover us for the whole year without having to come back for supplementary funds. We have also introduced a new subhead 26, supplementary funding £1.2 million and that is intended to be the indicator of the supplementary funding we are prepared to accept during the course of the next twelve months. In the last two years we have had a situation where we have started off with certain figures at the beginning of the year and then we have kept on coming back for money during the year. It was the same in the past, of course, it is not something that is peculiar to this administration but we feel that that means that it is much more difficult to control public spending and, in fact, we have not been successful, notwithstanding the fact that Heads of Department were circulated at the time of last year's budget, and told they could not spend money in excess of the money approved in the House unless they got prior approval, we still have a situation where we have come to the House to ask for funds which have already been spent and where people have, if they have got a certain amount of money for the whole year they have come back and told us "I have run out of money six months." In Gibraltar, regrettably, the history of control of public finance at departmental level that one would expect where if somebody has got x pounds for twelve months then he would spread the X over 12 months and monitor it on a monthly basis and let somebody know if his expenditure was running above the trend. This has not happened, we have had two years of experience of Government in trying to control it and we have not been able to control it. Of course, once the money has been spent it becomes academic whether the Government approves it or whether the House votes it, the money has been spent already.

Historically there have always been comments by the Principal Auditor of money being spent first and approved afterwards. We, in fact Mr Speaker, if you recall had a situation when we first started in the House in 1988 where we had to approve monies that had been spent in 85/86 and 86/87 which had somehow been overlooked. So this year what we are saying essentially is the £70 million is the £70 million and the supplementary expenditure is already in the £70 million. I think we have not done too badly, in fact, in the last 12 months in that respect because although we started with £69.6 million we finished up with £70.3 an over spend of half a million pounds, this notwithstanding the fact that we voted £700,000 more for the pay settlement. So if we remove the £700,000 from the pay settlement we actually managed to stay within the £69.8m. Nevertheless we are tightening the system even more this year by making a block provision of £1.2 million and therefore departments will have to seek the authority of the Financial and Development Secretary to vire any supplementary funds for which there is insufficient provision in the estimates. Obviously, if we can finish up with the £1.2 million unspent at the end of the year we would be very happy. I leave that to my colleague, the Honourable the



Financial and Development Secretary to deliver.

The other advantage of including this figure is that one of the reasons why we have this long cycle in the calculations of National Income figures by the Economic and Statistics Department is because in fact, when they do the first estimate they use the figure in the approved Estimates of Expenditure and the Government is a very significant chunk of the total economic package. When we come to the House with a Forecast Outturn they go back and they change all the calculations on National Income, take out the Approved Estimate figure and insert the Forecast Outturn and then when they get the final Audited Accounts they do the exercise a third time and replace the figures with the final figure. Since we are putting a provision this year to cover us for the maximum supplementary estimates we would expect that when the Economics and Statistics Office do their calculations for the National Accounts based on the Approved Estimates of £70 million, that in a years time they will not find themselves with a Revised Forecast Outturn which is significantly higher than that because that will not be any unexpected supplementary funds provided during the course of the year.

So I think those are two factors affecting this year's Summary of Expenditure which are consistent with what we are trying to do in controlling public spending and in producing more coherent National Accounts figures. Within the use of the resources, the £70 million figure that we for this year's target, is in fact in line with what I said in our first budget when I said we wanted to keep the increase to £1 million a year. to some extent the degree to which we are able to transfer functions out of Government, as has happened in the Telephone Department this year, will make that task easier or more difficult and therefore as my colleague the Minister for Government Services will explain in his speech in fact although this shows a provision for expenditure and income for 12 months, we all know that in fact this money is not going to be spent but at the time that the estimates were closed we had to take a decision and technically and legally we had to provide for 12 months just to make sure the money was there to pay the people if a deal had not been concluded with Nynex.

But in the light of what I have just said essentially what we are saying to ourselves is that over the next 12 months and in the preparation of the estimates what I would like to explain to the House is how we have tackled it compared to what was the practise in the past. Essentially if we look at the way we handled the Government's control of public spending and the Estimates of Expenditure and the Appropriation Bill, in our first year we simply accepted what the Treasury recommended and brought it to the House with very little input. In our second year we actually managed to cut back on Treasury allocations, we found that there were a lot of things that were simply being inflation proofed year after year without anybody questioning whether they were things we wanted to do in the first place. In the third year, effectively, what we have done is remove the machinery that

there used to be in the Treasury for the examination of the Estimates and it will be an on-going process throughout the 12 months. So instead of waiting to start putting the Estimates together in December or January, what we shall be doing is start working now to achieve next year's target of a ceiling of £70 million and not simply putting it to one side for 9 months. Therefore within then trying to do it in 3 months and therefore within the scenario that I have painted it means that we need to find ways of reducing public spending to compensate for the additional costs of the order of £5 million over the next 12 months. Part of which will be brought about by the removal of some aspects of Government activity such as the Telephone Department which will remove £1½ million of expenditure from the recurrent budget.

Essentially what we are talking about, of course, is the transfer of human and property resources so that they are used more effectively because that is what will generate the higher level of economic activity. In addition, of course, the economy is growing by employing more people and the objective of the Government is to keep this to the minimum, because we believe that it is in Gibraltar's best interest to grow by re-deployment rather than by importation of labour. However this re-deployment into new areas is not something that can happen overnight, it is something that requires the dedication of resources to retrain people which we are only now beginning to be able to do. In fact, if Members look at the Employment Survey that we tabled in this House, what we see is that the total employment in the last 12 months went up by 979 from 12,995 to 13,974 and that in fact within that total, the Official Sector went down by 100 and the private sector went up by 1,079. So in the first 12 months, between April 1988 and April 1989, 1,079 extra people were employed in the Private Sector and 100 less were employed in the Public Sector. I think this is a reflection of what I was asked in the previous sitting of the House, about how many of the extra jobs in the private sector would be taken by those leaving the Public Sector. Well the reality of it is that in our first year there were 10 times the number of jobs in the Private Sector created compared to the number of jobs lost in the Public Sector. But that is not what the Government would like to see because we think that it is a mistake to be over dependant on imported labour. Although it may well be that the work force of Gibraltar needs to get much bigger if we are going to achieve the kind of economic performances of other small places such as Lichtenstein which, for example, has a work force which is 50% higher than ours, even though they have a population which is smaller than ours. So if one assesses the performance of Liechtenstein and the performance of Gibraltar, in terms of their economic growth and the size of their economies, the reality of it is that part of the reason why Liechtenstein is much more prosperous than we are is because their population is 10% smaller than ours and their work force is 50% bigger than ours. However we can see that the transfer of human resources from public to private, is the most important thing at this particular juncture in our history because otherwise we can have a situation were the reduction in Public Sector employment



levels leads to unemployment for our own people at the same time as we are taking in increasing numbers of outsiders to fuel the growth of the Private Sector and that is something we want to avoid. In fact in the first year, the two biggest areas of Private Sector growth, apart from Financial Services, were Construction and the Ship Yard because at that point in time the Shiprepair Yard was trying to attempt to run on a large volume of business and drawing in a lot of casual workers who came primarily from Portugal, in an attempt to achieve the turn over of £15 or £16 million which was what had been estimated in the Appledore Business plan to be the level which would produce viability but which, as we all know, had the contrary effect. The more work we took on, the more money we lost. So in fact in 1989, when the final figures have been analysed and produced, we would expect that the Shiprepairing Industry as a source of employment will have gone dramatically into reverse as compared to 1988. So by the end of 1989, in the 12 months period 1989/90, we will see the growth that took place in 1988/89 being reversed and going back in the opposite direction and we will probably be having figures for April 1990 which are below what the original ones were for 1988. The Construction industry on the other hand is likely to show much faster growth over the last 12 months than it did over the preceding months.

In moving towards the provision of opportunity for the acquisition of new skills and indeed in developing the Scheme for school leavers, which until now we have had being trained under the Employment and Training Unit or an ad-hoc basis and which is still shown in the Estimates of Expenditure as being part of the Government, but as I mentioned when we passed the Bill setting up the Gibraltar Development Corporation it is the intention of the Government to pass this responsibility to the Gibraltar Development Corporation. This will enable us to do what we have been hoping to do for 2 years and which was an important part of our Election Manifesto, the creation of a new Employment and Training Ordinance. We have had great difficulty in getting this on the road and we hope to be able to use the Development Corporation as a vehicle to carry out these function and consequently the Training Unit which is still be in our Estimates of Expenditure will no longer be required to be financed out of Government spending once it comes under the Development Corporation.

Business Registration is also an area where we legislated in 1988 and has still not materialised. They are two important areas in anticipation of 1992 and we really need to get both of them going if we are going to have any real control over what is happening in the economy once the Single European Market starts operating and once the seven year transition period or the right of employment of Portuguese and Spanish nationals ends and they no longer need Work Permits or Contracts of Employment. Because then we will have even greater difficulties in being able to keep track of employment levels and what is happening in the economy. So the Business Registration, as I mentioned at the time that it was produced in the House in 1988, will give us some mechanical system,

at least, to be able to record what is happening, although in fact, keeping with Community Law, it will not be a question of licencing people and saying to them you can or you cannot do business depending on the needs of the community because that is out. That is still included in the Trade Licensing Laws, but we cannot add anything to it because under Community Law we are not able to add anything to the Trade Licensing Laws since 1973 when we joined the Community. Therefore if we are going to regulate any other area of activity which is not already covered in this law, then we need to do it in some other way and we hope that we shall now be able to do this within the Gibraltar Development Corporation given that we have not been successful in any other way until now.

Another area, where again we legislated in 1988 and we have not made any progress, has been in the sale of shares to the public and we, in fact, had to bring amending legislation because the time scale had run out in 1989. It is very likely that when we are ready to move, the first company that we shall be moving with will be the Commercial Property Company, which has investments in St Jago's, in the building that is known as The Haven and in the Europort Centre. We are still hoping to be able to get this on the road over the next 12 months, however this is not something, of course, that affects the Estimates of Expenditure, it does not have an impact on the year but it is still something that we consider to be an important part of involving people in the opportunity of participating in the economic activity and growth in the Gibraltar economy and in creating an atmosphere where people see investment in their local economy as a possible thing, given that one area where we have not really got a clue as to what is happening, is in the area of the savings ratio, in terms of incomes and expenditure in Gibraltar. It is an area where even in Expenditure Surveys the information is always highly suspect because, even when people are filling a questionnaire they do not really believe that the Government is not going to find out where they have their savings if they mention them, and nobody therefore mentions them. It is an area where, as I said at the beginning, to a very large extent it means that the growth of the economy and the growth of capital investment is financed from external resources rather than from domestic resources. In the long term this, in a normal economy, would lead to balance to payments difficulties, because you could have a situation where you are borrowing in a different currency from your own and then you are repatriating profits and dividends and that does lead to balance of payment difficulties. It does not in our case because, in fact, we have no foreign external debt. Our debt is all in sterling. Whether we borrow the sterling in Gibraltar or whether we borrow the sterling from a bank in London at the end of the day it translates into payments of interest within our own currency and we are not caught by a situation of running out of foreign exchange.

But it is preferable to create instruments which enable our people to invest some of their money into local investment opportunities rather than having a situation where the

residents of Gibraltar tend to have their investment outside Gibraltar and outsiders have their investments within Gibraltar. So we hope to be able to make some progress on that which has been an objective of ours on which we moved very early by introducing the necessary enabling legislation. I think it was in May 1988 however putting the mechanics of it into practice has proved to be much more difficult than we thought it would be.

The other area where the Government has given a great deal of importance has been the question of external promotions and of encouraging greater visits to Gibraltar by MP's and MEP's. Members will find that the sum of money provided for this in the Estimates of Expenditure are practically the same as in previous years. So we are continuing with these objectives but we feel that we can achieve the level of external exposure and also bring the numbers of people we want to bring within more or less the existing budget without having to provide additional sums. Obviously, as I have said in the past this is an area, that as a matter of Government policy, we believe is a very sound investment and if we felt at some stage that the amount was insufficient then we would increase the provision. That is one reason for the £1.2 million block vote for any supplementary spending. It would mean that notwithstanding anything that we would be willing to spend extra, on this or any where else, we will still be aiming to keep within the £70 million a year.

The areas within the budget, Mr Speaker, where we have shifted resources from recurrent spending to the Improvement and Development Fund, which will be dealt with by the Minister for Housing, who is now controlling what was previously the Maintenance Workforce of the Government, are an indication in human terms of what we are trying to do in financial and economic terms and therefore what we are doing essentially is that we are putting people to produce bricks and mortar buildings instead of simply using them to patch up what was there. We intend getting a higher level of output and therefore reflecting that money in capital investment, and that is one of the strategies in the transfer of resources which we are doing within the public sector as a complement as I explained when I gave my two year summary on television recently, is reflected in the transfer of skills that we think is so vital. In fact, the priority of the Government this year is to increase, as much as possible, the involvement of the local population, the local resident workforce in the construction industry which is where most of the growth is going to be concentrated for the next three or four years, and we have already seen a small move in that direction in our first year, because in fact, if members look at the Employment Survey breakdown by Industry for the Private Sector they will find that the Private Sector Construction Industry went up by 166 jobs in our first 12 months an increase which was quite significant in percentage terms although of course not dramatic in numbers, from about 130 to 146 in the number of Gibraltarians in the construction industry. That is an area which we shall be closely monitoring to see whether our efforts to encourage people to enter this Industry at

the level of the industrial workforce is being reflected in the statistics when they finally get compiled.

Looking at the overall financial situation of the Government, on page 5, last year I mentioned that although we were showing an expected deficit which was very substantial in the Improvement and Development Fund, we expected to be able, through Land Sales, during the course of the year, to balance the Improvement and Development Fund and in fact we are finishing this year with a £3.3 million surplus which reduces our balance to just under £1 million since we started with almost £2½ million deficit in the Improvement and Development Fund. Over the next 12 months we are looking to more or less a balanced budget on estimates of £30 million for receipts and spending. We think the expenditure is likely to be much less than £30 million but what we have done, I mean that for example, there is expenditure there on the Telephone Service, all of which have gone on reserve which will not now happen because in fact the Telephone Company will now do its own spending so that will be removed from the I & D Fund. But there are some items there on which we have already acquired a contractual obligation and which will be spent. But most of the stuff that has an arrow in the I & D Fund, next to it in the Telephone Department, means that it will not now happen and in a number of other areas we have in fact overprovided in the Improvement and Development Fund given the emphasis the Government places in the capital formation and given in fact the complication that if you provide more under one Head then when you are short on the other Head you cannot shift the money from one Head to the other. What we have done really is, put an estimate which is going to be on the high side and therefore it is unlikely that we will be able to spend as much as £30 million in the next twelve months.

But of course it is an ongoing programme. It is not like spending on Recurrent Expenditure where at the end of the day what we are trying to do is keep the cost of running the machinery of Government as low as possible. When it comes to capital spending either we build more houses one year or we build them the next year but we are trying to build them as quickly as we can. So what we do is we put as high an estimate as we think we can achieve in twelve months and if we achieve it well and good. If, in fact, we were to find ourselves over achieving then since there is a provision in the I&D Fund which of course is different from Recurrent Expenditure in that there is an item of balance to complete, then what would happen would be that we would then come back to the House for Supplementary Funds and more quicker than anticipated. However, I think it is unlikely that that will happen. Even if we spend more on one of the Heads in the I&D Fund we will be spending less on another one. The machinery which last year spent almost £15 million and the year before spent around £8 million cannot really go from £4m to £8m and £8m to £15m and £15m to £30m and £30m to 60. It cannot double every year. I think we've probably spend in the region of £20 million. That I think is realistically what we could spend and produce in terms of

capital investment as we are organised at the moment. We may find that we are able to do better than that this year and we will try to do better than that this year, but I am just making it clear because it is not a question of saying, we think we are going to spend £30 million and then we are going to come back during the course of the year and say, as I am sure you would remember the phrase in the old days, when they used to talk about slippage. Well we are not talking about slippage here. We are talking about a target which we know to be over ambitious but which we have deliberately chosen to make over ambitious and try and reach it.

On the Recurrent spending we are now looking to a deficit over the next 12 months of just over £4½ million, leaving us with a Consolidated Fund balance of 2.7 million. The intention of the Government, as was made clear last year and the year before, is to achieve a balanced budget by 1991/92 on Recurrent spending which means that we are prepared to run down our reserves to about £½ million. That is the same as we said last year and it is the same as we said the year before that. So, essentially, we can afford to continue the present trend of spending on the Recurrent Vote in excess of Recurrent Expenditure as we are at the moment, for about 18 months. As I said recently, and then in about 18 months time we really either have to start balancing the Recurrent Vote or we will have to start cutting on the Capital Vote in order to reduce the Recurrent Vote. So in a way the transfer of resources in one direction has to end when the resources in backing the Recurrent Expenditure which are the resources of the Consolidated Fund, run out. Once that runs out there is no way we can keep on transferring resources and then we would have to put an end to it.

At the moment on the projections in front of us that situation will be reached in 18 months time. If we are successful in maintaining the restructuring of the Government Services at the rate that we are doing at the moment, slow though it is, we would expect to be able to achieve that target. If we go any slower then we will have to retrench and if we go any faster then we will reach our estimates that much quicker. We do not have, in these Estimates, any clear cut new areas that we can see as changing, except what the House knows already, which is the question of an area of the Ministry of Trade & Industry which is the Crown Lands Section where an explanation was given and although they are included here, they are expected to be setting up on their own in July this year.

In the area of Public Works my colleague the Minister for Government Services is talking to Lyonaisse Des Eaux about the water supply but we have no concrete proposals, and therefore we do not know what is going to happen. We are also looking at the question of the Philatelic Bureau but there again we have not yet been able to take a policy decision on this and therefore it is in any one of those areas where we could find ourselves with a situation during the course of the next twelve months of moving them away from Government. In looking down that road essentially what the House has

to remember is that in the way that we are managing public expenditure this is no more than a snapshot, it is not therefore a continuity of a system because we are changing the system and since we are required by the Public Finance and Control and Audit Ordinance and by the Constitution at one point in time to halt the process and come to the House and present the picture then this is the picture at the beginning of April 1990 it is not however the picture for the next twelve months, and it is not intended to be the picture for the next 12 months and therefore it can only be treated as a situation of what would happen if there were to be no further changes. But there are going to be further changes, and the results of those changes will be reflected again next year and in fact the preparatory work of the first 2 years are now going to showing through, first of all in the pattern of Government spending, secondly in the reflection on the estimate of economic growth and in the way that the statistical data compiled by our Economic and Statistics Office on the basis of the advice we have had from people who have dealt with National Accounts for many many years. We will therefore see a situation were, what we know to be happening on the ground is translated in the published statistics that give the picture of the economy of Gibraltar to the outside world.

It is an important fact, Mr Speaker, not only that the accuracy and the quality of those statistics are important to us, as a Government, in order to manage the economy efficiently but of course it is important because the truth of the matter is that nothing attracts like success and the more vibrant and successful and dynamic our economy looks to anybody that looks at the public statistics, the more people are interested in Gibraltar and the more people that are interested in Gibraltar the easier it is to keep the economy moving at a fast pace. So on balance, having now had a greater volume of statistics than we had in the last 2 years and having upgraded the quality of those statistics, and having now introduced the necessary mechanics for maintaining a much more tight rein on public spending than has been the case in the past, we think that the target of 50% of real growth is attainable and will be attained and that in fact we are now looking towards the kind of Economic Programme that needs to be prepared to take over after 1992 by which time, frankly the Ministry of Defence will constitute a very very small part of a very much bigger economy and a trend where we need no longer be in a situation of constantly being worried on how do we cope with sudden changes in the sources of our livelihood and our standard of living because of political decisions in Whitehall or because of the changing military situation in the world. The target of a self sustained growing and viable economy for Gibraltar is now within sight and we can look to achieving that without a doubt by 1992 and creating a new base for growth for the future, I commend the Bill to the House.

MR SPEAKER:

Before I put the question does any Hon Member wish to speak on the general principles and merits of the Bill? Perhaps before any Member rises to speak, I should like to point out that it is very important that they should exhaust at this time the principles and merits of the Bill because at the Committee Stage, when everybody can speak as many times as they want, I will be rather strict on the question of principles and I shall limit the speakers more to the Subheads than to the Heads.

HON A J CANEPA:

Thank you, Mr Speaker. Sir, we have, particularly this morning, had from the Chief Minister what I think can best be described as an interesting lecture on economics which has included an analysis of Gibraltar's economy and which has included some explanation of Government strategy on the economy and their approach to the Estimates of Expenditure. Therefore, in my reply, there is not a great deal that I am going to say or comment on, directly, on the Chief Minister's statement and I dare say that that is going to be the pattern very much in the debate that is going to unfold on the rest of today and perhaps tomorrow. Sir, last year when presenting the Estimates of Expenditure, the Chief Minister said, for the first time then, that his speech was about 'the State of the Nation'. And today, over two years after the Government took office, I propose, on behalf of the Opposition, to present an analysis of the real state of the Nation, of the real state of Gibraltar both its economy and the public services as we see these matters from this side of the House. I shall be dealing, not just with what the Estimates for 1990/91 reveal, but what is just as important if not more so, in our view, with what they do not reveal. In what has become this annual non-event, and in his last Ministerial broadcast of the 26th March this year, the Chief Minister boasted about the annual rate of growth in the economy which the Government was achieving. If the economy were to achieve not just a 50% growth during the four year term of office of the Government, Mr Speaker, but were actually to double that, if it were to achieve a 100% growth in the economy then that, unless it had a positive impact which the people could see, that in itself, that alone would be meaningless insofar as the ordinary man in the street is concerned. Unless, as I say, he sees some results and unless he can measure these results, either by having more money in real terms in his pocket because he has more money since every year his wages and salary are increased and there is provision in these Estimates of £4m to do that again for Government employees, so there is more money in his pocket. But does he have more money in real terms? The answer is no. Or unless the ordinary man in the street can perceive that around him there is a Gibraltar which has an improving infrastructure, which is cleaner,

which is tidier and which is offering more to him and to visitors to Gibraltar by way of value for money. But that, Mr Speaker, I am sad to say, is not the case. The reality is that the average worker, the ordinary man in the street is paying about 25% more in income tax than what he was paying when we were in office and he sees a Gibraltar that is every day dirtier, more tatty and a deteriorating public service, the morale of which just does not exist because it has plummeted right down to rock bottom. Therefore the ordinary members of the public, men and women, are constantly complaining about the public service that they receive and I saw evidence of this when I was coming to the House this morning, great queues forming outside the building just across the road due to the low state of morale in the civil service as a result of the Government's policies. The only improvement that there has been in infrastructure is the introduction in the Telephone Service of System X, a legacy of our efforts as was made clear by my Hon Friend on my left, Colonel Britto, during the election campaign when he explained in great detail the improvements and measures which we had already budgetted for. To finance this growth the GSLP are taking a huge gamble with their economic plan. A plan which is dependent on investment from outside and investment from the Government by way of an unprecedented level of borrowing. The Government already has powers to borrow up to £100m. It has already borrowed huge sums of money, many millions of pounds and this is reflected by the increase in the total public debt charges which in 1988/89 stood at £6.4m and for which there is provision in these Estimates in 1990/91 of £11.1m. It is the taxpayers of today and of tomorrow who for many years to come will have to pay back these huge debts. If the Government's plans for the economy work, we may be able to afford to pay back these debts. We will not, of course, know until after the next general election, not before, whether the Government's plans are working. I think that it is going to take well beyond 1992 for the success or otherwise to be seen for the Government's plans because they are not of a short-term nature. If the gamble does not come off and Gibraltar cannot pay back these loans then our people, the most important resource that we have, as Mr Bossano is so fond of telling us, will be the ones who are going to arrive at the crossroads and where one of the signposts point to bankruptcy. And it is people, ultimately, and not the Government, who cause an economy to succeed or to fail. They are the ones who produce the wealth that Mr Bossano is so reluctant to part with. During the last year, when we were in office, Mr Speaker, 1987/88, the actual revenue from income tax was £25.7m. The forecast estimate for the financial year which has just ended is £34.3m. So during this two year period the yield from income tax has gone up by £8.6m, almost exactly one-third. Part of the increase is due to the fact that there are more people in employment and therefore there are more taxpayers but all the indications point to the fact that working people are paying approximately 25% more in income tax than what they were

when we were in Government and yet the Government has no plans to reduce the burden of direct taxation. Mr Speaker, I believe that the Government is ignoring the aspirations of the largest group that voted for them, the working class, members of their own Union. When we were in office we used to hear Mr Bossano, at Budget time in this House, and Mr Netto through the submissions of an annual memorandum to the Government, complaining that we were the most heavily taxed people in Europe and it is only natural, therefore, that the working class, that members of their own Union should now look to the Hon Members opposite to do something about it and to bring about reductions in income tax. Last year they were unable to deny or even attempt to answer our contention that the Government could definitely afford to cut taxes, at least to the extent of restoring the real level of take-home pay to the position which it was after income tax was reduced by us by a total of £7m in our last two Budgets that we introduced in April 1986 and then in April 1987, and I have no doubt, Mr Speaker, that the expected revenue yield of £85.6m for 1990/91 is grossly underestimated because fiscal drag alone should ensure that it will be more, in fact it was £87.4m. We consider this to be a distortion intended to give the impression that the Government cannot afford to cut income tax. As I was saying, Mr Speaker, there have so far been few tangible results. We see that directly attributable to the Government's efforts is the Westside reclamation. That may be a plus but there is a hidden minus in it somewhere which is probably the large hole in the sand opposite Sandy Bay and partly responsible for the fact that our beaches on the Eastern side are not being replenished by sand as they ought to be because the sand is gravitating to fill the hole and is not being brought back by the sea. So there is already that minus.

HON J C PEREZ:

The Hon Member must have gone diving!

HON A J CANEPA:

The Hon Member would be surprised at what I get to do in my spare time. We had planned, of course, ourselves to reclaim at Westside, in fact we had invited tenders in late 1987. The reclamation was not intended to be as large and the Government chose to cancel those tenders and to negotiate directly with a Danish consortium. What we will never know, of course, is whether had they gone out to tender themselves they could have had a better deal than what they have had with the Danes. That will never be known. We were not able to plan in terms of as large a reclamation when we were in office because the Royal Navy at the time was afraid that it would result in such siltage in the harbour as to interfere seriously with the operational requirements of the Royal Navy. I do not know for what reason, perhaps as a result of a change of personnel on the spot, I do not know, but certainly matters have now been viewed differently and, in

fact, the green light has been given for a larger reclamation. Of course, we applaud that if it is going to be for Gibraltar's benefit. Mr Feetham is very fond of telling us that the Jewel in the Crown or is it the Jewel of the Mediterranean? No, just the Jewel of the Reclamation which is the Europort Building. What is, I think, of some significance, Mr Speaker, is that here you have a project which is going to produce a considerable increase in the office space available on the Rock. But the question that must be asked is "Is all that office space going to be taken up or will it lie empty as a huge white elephant?" Already the EuroLife Building at Corral Road has some twenty or so office space lying idle. There seems to be little demand for office space at present. Offices are also available at the International Commercial Centre and there are offices available at Leon House. I wonder, Mr Speaker, are these already danger signs? Are they indicative of troubles ahead and therefore a non-realisation of the Government's plans for the financial centre? And what is the sense, Mr Speaker, in permitting a change of use for a lovely old residence in the centre of town not 200 metres away from Leon House when there is plenty of office space available there and more to come with the move of the Income Tax Office to St Jago's. There is also space at Seclane House in Secretary's Lane and yet 200 metres away a change of use has been permitted from residential to office accommodation for a lovely old building with a beautiful facade. I think that the Development and Planning Commission chaired by Mr Feetham should not allow any change of use as a matter of policy now or in the future. So is the Government getting its strategy wrong, Mr Speaker? Are there already dangers signs appearing and therefore a pertinent question that must also be asked is to what use is the Government going to put the lands to be transferred by the Ministry of Defence? These are the sort of questions which we look to the Government to provide us with answers. Mr Speaker, on the question of investment from outside. Even if the Government were to be successful over the next two years in attracting investment from outside to a greater extent than they have been so far, there may well be a political price to be paid. As we have seen elsewhere, foreign investors often turn out to be what one could term 'neo colonialists'. They either virtually govern or run the country themselves or they get as close as to be seen to be doing so as in practical terms it makes no difference. And that could happen in Gibraltar, that could happen to the GSLP Government. If the Government does not shape or trim its policies in the way that foreign investors require then either they will not invest at all or if they have invested they will then pull out. And the demand for the adoption by the Government of certain policies may not just be limited to the economic field. It could include foreign affairs and then if the Government does not pursue the policies which enable these investors to get the sort of return from their investment which they are looking for, they will leave us in the lurch. Faced with such a prospect the Government might be forced to become more accommodating



in foreign affairs such as having to negotiate the sort of Airport deal that neither they nor most people in Gibraltar would want, with the possible exception, according to the FCO's Mr Greenstock, of a certain other political party. If we wish to stay more or less as we are insofar as trade and the financial sectors are concerned, then the Government may be able to continue to stonewall on the Airport. But the sort of investors that could come to Gibraltar, and they are not exactly engaged in charitable activities, are quite capable of exercising these pressures with serious consequences for Gibraltar if the Government were to be compelled to dance to their tune. The time has come for these dangers to be squarely faced, Mr Speaker, for they also go hand in hand with the Government's economic policies. Mr Speaker, one of the most important matters which is not revealed by these Estimates is how the joint venture companies are performing and how they are being funded. Taxpayers' money is going into these companies, mostly under a veil of secrecy. There is no doubt that Gibrepar owes the Government vast amounts in income tax, in social security contributions, in electricity, water, telephones and so on. We do not know what the exact position is because the Government has refused to make the information available to the House. And we do not know what the position is insofar as the joint venture companies are concerned. But we can guess that they too are in debt and that the unfortunate taxpayer is in some way or other, in some shape or form shouldering the burden as well. It can hardly be wondered, Mr Speaker, that we have fundamental objections to many of these companies and as has been gauged from our contributions in this House, we also have fundamental objections about the Gibraltar Development Corporation. I dare say, Mr Speaker, that the Estimates of Expenditure which are, indeed, getting thinner with the passage of time and which will, from what we have heard from the Chief Minister today, continue to be on a slimming diet between now and 1992. We dare say, because all this is part of the transformation, of what the Chief Minister last year called 'a transformation' which is, in our view, aimed at concealing more and more. We can surmise, therefore, that these Estimates are not likely to have a great deal to do with the funding of projects to be carried out in due course by the Gibraltar Development Corporation. Mr Speaker, one of the first actions accordingly which the next AACR Government will therefore implement will be to try to get to the bottom of how the joint venture companies and the Gibraltar Development Corporation have operated. The next AACR administration will therefore undertake an immediate and far-reaching enquiry into the state of these companies and of the Gibraltar Development Corporation and I have no doubt that what we will then uncover and which the people of Gibraltar will then get to know about, is going to be a great deal more horrific than what the Chief Minister said recently, that he uncovers new things every time he looks through the Government files of our past administration or, indeed, perhaps even more horrendous than what our lady

Minister has uncovered when she came into office at the Hospital. Again, Mr Speaker, we see the deliberate policy of the GSLP of trying to distort the picture. In 1988 and before, when the Chief Minister addressed Civil Servants he spoke of restructuring the Civil Service. They still do but only last year did it become evident that what he had in mind was the wholesale destruction of the Civil Service by cutting the number of jobs from 600 to 200. Mr Speaker, Members opposite are no fools and they know that if they had told the Civil Service what shape the establishment of departments would be taking by 1990, as shown in these Estimates, then I wonder how many of those 600 and how many of their families would have voted for the GSLP in 1988. These Estimates do show now some substantial cuts in the number of posts so that we must conclude that the bus about which the Chief Minister spoke last year which was out of control and which was running downhill has now in fact been brought to a halt and that in fact it has been turned round. Perhaps when the Chief Minister exercises his right to reply he might let us know a little bit more about that. Perhaps he might let us know whether he is still trying to make a three-point turn. But what is lamentable is the loss that there has been, the irreparable loss, in the fund of experience and knowledge which was built up by the City Council and then by the Civil Service over many years. So much so, that in fact, earlier in the year the Chief Minister had to draw back, he had to stem the slaughter otherwise the Treasury would not have been able to produce these Estimates. That was the extent that they were being denuded. Morale amongst young people in the Civil Service is abysmally low. What can a young man of twenty-five who joined.....

HON CHIEF MINISTER:

If the Hon Member will give way. Who was it that was about to get slaughtered and did not get slaughtered? Because I am not aware of any of this.

HON A J CANEPA:

I am talking of those, Mr Speaker, who it is said that their posts were going to be abolished. Who were going to be given early retirement and that if this had gone through, before the Estimates had been produced, then they would not have seen the light of day. So they have had to be kept on. This is the information that we have.

HON CHIEF MINISTER:

Then the information is wrong, Mr Speaker.

Well, if it is wrong, the Government give so little information that no doubt what we are able to pick up in the street may well be distorted. But perhaps they might answer these questions: What is the Chief Minister offering today to a young man of twenty-five who joined the Civil Service seven years ago when he was eighteen? What does he have to look forward to? What are his prospects? Will he be part of the magic figure of 200 that are going to be kept on or does he have to look to employment in the joint venture companies in order to get anywhere? I think he really owes such persons an explanation. The sort of explanation that either outside, at meetings, on television or here in the House, he has not in fact given these people, particularly if they voted for him. Because if they did he has deceived them by acting in the manner that he has with no explanations and no real words of comfort about their prospects in the future. Mr Speaker, the sort of explanation that is required from him is much clearer than the "economy with the truth" that we saw in the GSLP manifesto. Likewise, neither here in the House or outside, particularly outside because he has not said anything today, about the Income Tax dispute which lead to industrial action some months ago. The Chief Minister did have to make some statements outside this House but he has not convinced anyone about the real reasons for discontinuing the Investigation Section of the Income Tax Office. In any case, the kind of deployment that he has carried out there is the sort of thing that we were trying to do with Customs Officers when the frontier opened and which, of course, he as Branch Officer of the TGWU resisted so successfully with industrial action. I think he is lucky, in a way also, that there is no one on this side of the House who can either than through political action, try to frustrate him in any way in respect of what he is trying to do. Sir, during last year's debate I complained about the pattern which was becoming established of Government by Regulation. Since then the Government has taken a number of other steps. They have altered the Income Tax structure by Regulation, they have obtained powers to increase Import Duties by Regulation, they are by passing the House of Assembly through the Gibraltar Development Corporation and, of course, we cannot but wonder whether there is not more to come. That is why the two reasons that he has given for the provision of £1.2m of supplementary funding, the two reasons that he has given in support of that are not in themselves sufficient and make one wonder whether there is not also an ulterior motive. In other words, that it is just not a case of setting a maximum target, a ceiling of £1.2m and that it is not just a case of enabling the compilation of statistics to be made easier. The third reason could be that this is just one other step in what the Chief Minister has been doing, of not giving Members of the Opposition an opportunity to probe and to raise matters by not having to bring a Supplementary Appropriation Bill to the House because unless the Government is going to spend more than

£1.2m, by way of supplementary appropriation in 1990/91, they will not have to come to the House with a Supplementary Appropriation Bill. Instead what they will be able to do is through virements be able to meet the requirements of departments and we here will not be given an opportunity to probe and to question. We will be able to ask a specific question after the event once the statement of virements have been laid in the House. This is yet another example of Government by executive action, reducing the role of the House, a role that enabled the Chief Minister to make an impact in the past and which progressively is being denied to present Members of the Opposition. I suppose really that we ought to be grateful that there is still Head 8 - House of Assembly, that funds are still being provided under that Head. Last year, Mr Speaker, the Government contributed £10m to the Social Assistance Fund. This year there is provision for another £10m and whilst we have no doubt that the work which has been carried out by Gibraltar Community Care in paying out £26 and £39 quarterly to single persons and to married couples respectively is welcomed, many pensioners are fully aware of the fact that really what they are getting is way below what they ought to be getting if one takes the rise in the cost of living and the level of inflation. Because over the last two years alone there has been an increase of around 10% and they should be getting more than double what they are in fact receiving. A married couple should be getting at least £7 a week and not £3 a week. If the previous formula of linking pensions to average earnings had not been removed and about which I think my Hon colleague will be commenting later, then the figure would be higher. We would like, Mr Speaker, the Chief Minister to tell these people honestly once and for all, tell these pensioners and those who are to be pensioners, what they can expect in 1993. We expect them to be told before the next general election of what the plans of the Government are. How are these plans shaping up? What exactly is going to happen? How are pensions to be funded in the future? Last year when speaking about the £10m the Chief Minister said, and I quote from page 18 of Hansard: "Obviously £10m is going to be well in excess of the money that we are going to be spending in the next twelve months and that excess will go, together with the money left over from last year's £1m, to building up that reserve". And I think he later went on to speak about a reserve of some £20m. Perhaps Mr Mor, when he makes his contribution as Minister for Labour, Mr Speaker, could inform us as to whether the whole of the £10m have been used up by Gibraltar Community Car?. The forecast outturn for 1989/90 is £10m. Does that mean that all that provision has been spent or only part of it? And, if so, what amount? Also where has the amount unspent gone? Where is the reserve? How is this Fund being administered? I cannot recall that legislation has been brought to the House setting up a Social Assistance Fund. I have not seen any Legal Notice setting it up. Where is the money that has been unspent this year and the £20m as they grow in the reserve over the next few years, where are they going to be? They



are not, presumably the contributions from workers, the social insurance because that is still in the Social Insurance Fund. Is this money being put there as well? I think not. Is it perhaps going into the Post Office Savings Bank? I am serious, we would like some explanations on this matter, Mr Speaker. What is happening to the amount unspent? What is happening to the reserve in the Social Assistance Fund? We note, Mr Speaker, that in the Telephone Service only £1.8m of revenue as against £3.5m last year is anticipated. Government is aiming to privatise the Telephone Service half way through the year. Privatisation indeed, Mr Speaker, is no longer a dirty word, not even for the extreme left in Gibraltar. If anyone had said to me, Mr Speaker, at any time during the 1980's that the word 'privatisation' would have been legitimised by its use in Government Estimates of Expenditure presented by the Hon Joe Bossano as Chief Minister, I would have said that he was round the bend. In 1976, I recall, we had an offer from Cable and Wireless to denationalise the Telephone Service and we turned it down. We turned it down because we believed that what was nationalised should not be denationalised. It was something which had been created in the days of the City Council and the Telephone Service was running well and efficiently. Again, during the last administration, in the context of the negotiations with GibTel and with Cable and Wireless and the creation of the joint venture, that is, Gibtel, again proposals were received for them to take over the Telephone Service and we turned those proposals down for the same reasons, because of a fundamental political principle which was at stake. We are convinced that with the development of modern technology in telecommunications and we are concerned here with a service that can be highly profitable with great benefit to subscribers, and of great benefit for the public. The setting up of this joint venture company with Nynex, Mr Speaker, is a move that we oppose. Again, there can be no commitment on our part for a future AACR administration to continue with these arrangements. We will not commit ourselves to do so, we would have to examine them very, very carefully under a microscope and the only thing that we can commit ourselves to do is to safeguard the jobs of those people who are to be employed in the joint venture company with Nynex but beyond that we will not go. Here we have, Mr Speaker, a so-called Socialist Government implementing policies which are right wing policies, which are Conservative policies. Policies which are described as Thatcherite and which if we, on this side of the House, had ever thought about not just seriously thought of implementing, if it had been discovered that we were thinking such things then I think it would have precipitated industrial action against us. But, as I say, nowadays it is quite acceptable and the Government goes ahead unopposed. The GSLP are Socialists of what kind, Mr Speaker? Because if that is socialism then I and my colleagues must be extreme left wing Trotskyites, probably the only ones left these days. Really, Mr Speaker, an analysis of these Estimates and consideration of what the Chief Minister has had to say

leads one but to one conclusion and that is that the GSLP are so obsessed with their economic theories that they cannot see that in practice they do not work. They are keeping the economy going artificially mainly through direct and indirect Government subsidies at people's expense. Whilst the same people's aspirations are not being met. These economic policies are taking us into what are really dangerous unchartered waters and we are going to have to swim because if we sink we are not likely to leave much of a trace behind. In 1988 the people were asked to vote for change and during 1989 it started to become clear to many just how adversely these changes were affecting them. 1990, Mr Speaker, may well turn out to be the year when the majority will become convinced in their own minds about fears which, unfortunately, many of them are afraid to voice openly but more about that later. It is being said that the GSLP has no social conscience and that they are Socialists in name only. Whilst in reality they care more about power and the exercise of power than what they do about people.

HON MISS M I MONTEGRIFFO:

Mr Speaker, after hearing the contribution of the Leader of the Opposition perhaps listeners once they have heard what I have to say as far as my Departments are concerned will be convinced that we are truly a Socialist Party and that we care for the people of Gibraltar. And I would add more than any other previous Government has ever done. Therefore, Mr Speaker, I will start by giving a report on the improvements that have been undertaken by my Departments during the last financial year, namely, Medical Services, Environmental Health and Sport. I am glad to say that our on-going programme is very positive. Record sums have again been spent in improving the services that we are providing and we will continue with this policy. The impetus that has been given after only two years in office is one which has never been witnessed before. The improvements are very visible for everyone to see, Mr Speaker. In the two years we have been in office the GSLP Government has made many inroads and laid solid foundations which are enabling us to become a rapidly changing community. However, as you can imagine, Mr Speaker, the pace we have had to set ourselves is a very fast one, because apart from the task of rebuilding Gibraltar, we are conscious of our targets and of our specific commitments which have never been so clearly spelt out before to our electorate. Already in my Departments, not only have commitments been fulfilled but simultaneously other improvements have already taken place.

Within the Medical Services there are again very noticeable achievements. The new administration has been successful in implementing a system where there is constant contact with Section Managers and with the Medical and Nursing profession. The Health Authority is therefore in a better position to plan ahead as information and statistics, which were not there when I took up office, are now available. But most importantly, of course, the principle of my Government is being constantly adhered to and that is that the patient's needs will always be paramount. Consequently, there is a wide-ranging number of improvements in the services and the record sums we spent in our first year on equipment and building and repair works have in our second financial year been increased even further. I think it is of public interest, Mr Speaker, to explain what equipment the Health Authority has bought and all the refurbishment works that have been carried out, as they are quite outstanding. Napier Ward, the male surgical ward, Mr Speaker, has been completely refurbished and on furniture alone we have spent £29,000. On orthopaedic prostheses we have spent £70,000, since when we took up office, there were none in stock. A new Telephone Exchange system for St Bernard's is in the process of being installed which will provide, amongst other things, better communication between wards at a cost of £16,000. We have bought the latest in Operating Theatre Tables with radio control facilities, this piece of equipment has cost £22,000. I have quoted these figures, Mr Speaker, to give an idea of the sort of money we are talking about. We have also obtained an induction anaesthetic machine and new mattresses for the Theatre; a new controlled tilt table for the Physiotherapy Department as well as a laser attachment; a new Post-Mortem table and other accessory equipment for the Mortuary; an incubator for the laboratory; a resectoscope; ECG tester; ENT drill and light source; a reagent refrigerator, pacemakers, muscle stimulator, maternity incubator, X-ray tubes, oxygen concentrator, etc. A whole list of equipment, Mr Speaker, that actually amount to approximately £22,500. But I think I need to mention that as well as the new Telephone system presently being installed for St Bernard's Hospital there is also another new Telephone system being installed at the Health Centre. I now move on to the Wards, Mr Speaker. We have completely refurbished Napier Ward to an extremely high standard and which was completed in the incredible time-scale of four months. We are completely refurbishing the Mortuary; Roof repairs and refurbishment to the Speech Therapy Department; Roof repairs and refurbishment to the Children's Ward; to the John Mackintosh Wing roof; sound proofing for audiology; KGV patient area partition; refurbishment to the KGV domestics rest room; air conditioners in three departments; refurbishment of the top entrance of John Mackintosh Wing; provision of a dirty linen room; Pharmacy security (blind and intruder alarm) system; new filing modules built for the Records Department at St Bernard's as files were previously being stored in cardboard boxes; works are also in motion for the installation of a new boiler; the refurbishment to

the Eye Department waiting area; a new Clinic at the Health Centre to accommodate the extra GP we employed; as well as works to the treatment room at the Health Centre. We have also completed the painting of all the corridors at St Bernard's, including staircases and hallways. We have also put up hospital signs and new linoleum for all corridors will soon be fitted. I would also like to mention, Mr Speaker, that works are now being carried out to embellish the St Bernard's Hospital patio. Some of this work is being done on a voluntary basis by certain individuals. We are very grateful to these persons. It is appropriate at this stage, Mr Speaker, to thank the community for their charitable work and the donations they are providing to the Health Authority. In this coming Financial Year, Mr Speaker, as Members opposite will already have seen in the Estimates, we are placing even more emphasis on medical equipment and the figure is quite considerable, £300,000. This means that since we took up office, the GSLP Government has doubled the spending on medical equipment. Another important innovation during this Financial Year has been the introduction of computers in a number of areas. The Pharmacy was computerised and a new financial programme is being installed. We also now have the Finance, Dietetics and the Sponsored Patients' Department already computerised and we have plans to computerise two other areas, the GPMS and the Supplies Department. This measure will assist the staff in providing a better and faster service instead of having to go through so much paperwork and hundreds of files. Mr Speaker, because my Government was conscious of the financial hardship that some people suffer when they require to go to UK for specialised treatment, since January allowances for both patients and escorts have been increased. However, the fact, Mr Speaker, that my Government is providing these huge sums of money does not mean that we are neglecting our commitment for providing a new Hospital. But before we are able to take a final decision, negotiations with the MOD have to be completed. I am referring to the RNH site. Nevertheless, until such time as there is progress on this I can confirm that we intend to devote resources to continue improving the Medical Services. The Government has approved, Mr Speaker, the new post of Cytology Screener which is in the process of being filled. When the GSLP was in Opposition, Mr Speaker, we continuously fought for the provision of the post of Dietician. This, although included in the Estimates for quite a number of years, was never realised and I was given all sorts of reasons for the AACR's failure to recruit somebody. I am happy to say that the Health Authority was successful in recruiting a Dietician, who began to work in December, 1989. She has set up a Nutrition and Dietetic Service and is seeing inpatients on a regular tour of the wards, as well as responding to referrals. Diet information sheets, which in most instances were outdated by something like ten years, have already been updated and produced for use in the wards and diet sheets have been developed for patients. Outpatients are also being seen either through the Hospital

or the Health Centre. The Dietician is also involved with several community groups and links have been established with St Bernadette's and St Martin's Schools. There has been an expansion, Mr Speaker, of the District Nursing Services. This has been achieved by extra staff and by increasing the working week to a seven day rota system. This area of the service has been further enhanced by the creation of a new Community Psychiatric Nursing Services Department. This new Department offers much needed continuity of treatment to patients, following discharge from KGV Unit, and it will also be able to provide specialist treatment within the patient's own environment, for example, behaviour modification therapy. The Centre was built by the Government and it is situated at Landport Ditch. During the past year there has also been a strong emphasis on Nurse education and there has been an increase of specialist training in the UK. A total of twelve nurses have been sent to specialise in a whole range of up-to-date nursing techniques. The courses they have attended have been in Nurse Management, Psychiatry, Midwifery, Paediatrics and Dermatology for skin diseases. Locally, two courses leading to enrolment for Nurses which had previously been discontinued have been arranged with a second set starting soon after. Both courses together offer the Department the potential of having more trained nurses. Manpower resources have also been looked at and this has meant redeployment of staff to other areas within the Department. Initially this has meant ward based trained staff in the acute services area on night duty, which has enhanced the quality of care delivered to the patient. Increased expenditure in the wards on equipment and works has facilitated delivery of the nursing care provided and the feedback, I am happy to say, is that this has been a morale booster for the staff. This past year the Health Authority also embarked on a new programme to make more use of visiting consultants and it is also liaising with its doctors for the first time so that the courses they attend are those which benefit our needs. On the administrative side, new procedures have been implemented where the Authority has routine management and patient information in order that any problems which may arise can be quickly seen to and plans can be formulated for improvements. I can therefore confidently reiterate, Mr Speaker, what I said last year, that this Government is demonstrating that it is reshaping our Medical Services.

The Environmental Health Department, Mr Speaker, one of my other responsibilities, has throughout this year given a lot of emphasis to Health Education. As a result, an awareness has been created among schools and other sectors of the community. A health promotion strategy was set up last September with help from the professionals within the Health Authority - Doctors, Physiotherapists and the Dietician. They have made valuable contacts with schools where they have been giving lectures on the environment, the dangers of smoking, etc. The Department also participated in World Health Day, involving the community and school children.

Talks and class exercises were carried out and children also cleared up an open playing area. To coincide with World Health Day, the Department mounted a public mobile exhibition which consisted of stands showing some of the projects undertaken by the children. Also as part of prevention plans, within the Department, all health professionals working within certain areas of the Medical Services have been immunised against Hepatitis B. On the food hygiene field, courses offered to the public, which were started in our first year in office, again have been extremely successful this year and the individuals who pass them are awarded a Basic Food Hygiene Certificate. Mr Speaker, for the coming financial year, a Health Education Promotion Programme has already been formulated which will continue to lay emphasis on the most important health and environmental related matters and the Government will again undertake an immunization campaign. The programme will involve the Specialist in Community Medicine, Physicians, the Dietician and Health Visitors. Together they will work with health promotional initiatives to make our community aware of such matters as the dangers of smoking, the severe problems caused by alcohol abuse as well as providing information on other health topics. As part of the Government's clean-up campaign, the Department has also planned an expansion of its environmental protection programme with particular emphasis on an anti-litter campaign together with other Government Departments, the Tourism Agency and voluntary organisations. It is important that the public should respond in order that we shall be able to enjoy living in a healthier Gibraltar.

I will now move on, Mr Speaker, to my other responsibility, Sport. During the year a lot of major works have been undertaken at the Victoria Stadium, which had been lacking proper maintenance for a considerable number of years. We have refurbished the outdoor changing rooms, the outdoor facilities' toilets and a new perimeter fence adjoining the airfield was completed for hockey and football. Two extra entry points for the hockey pitch have been provided and still on the outdoor facilities, two new water heaters have been installed. A panel wall damaged by the recent storms is presently being rebuilt. The grandstand toilet facilities have as well been refurbished and improvements have been made to the floodlights in the main pitch. As far as the indoor facilities are concerned, here again, funds have been made available for equipment and refurbishment works. The north side entrance now has a new wall and an extra gate plus a disposable waste compound. The changing rooms in the indoor facilities have been upgraded and also converted from two changing rooms into four, with an extra room for showers. Two for ladies and two for gents. All four changing rooms have been provided with new lockers. We have also bought two new boilers to replace the old ones which had reached the end of their lifespan. These boilers had been there since the Stadium was built and as a result were breaking down frequently. I remember in last year's Budget,

Mr Speaker, that the Hon and Gallant Colonel Britto expressed reservations about the new scoreboard for the sportshall and wished me luck in a scoreboard that would meet the needs of every sport that used the hall. Well, I am more than happy to say, that such a scoreboard has already been installed. I can confirm that it is suitable for all indoor sports. It has an incorporated P/A system with a day clock, game clock, team scores, fouls, sets, periods, timers, horns, etc. It even has ten computed generated tunes and it can be easily handled through a very cleverly designed electronic keyboard. Turning to the question of community use of sporting facilities at the schools, for which we provided the money last year, during meetings with Headmasters and teachers the administrators of the Stadium have been able to provide even more allocations, plus the use of Saturdays and for the first time they are being used during the summer school holidays. Again, for the first time, arrangements have been made for the admittance of spectators, something which has been welcomed by the Sporting Associations. The £40,000 grant is providing financial assistance to Sporting Associations on a scale never seen before and it is gratifying to hear so many of them thanking us publicly. Mr Speaker, as I have already informed Members, the deadline for the proposed suppliers of the artificial surfaces to produce a schedule of works expired and this has meant that the Government now has the option to start fresh negotiations. In March, I informed the House that we were actively pursuing alternative proposals and today I can say that we are well advanced in negotiations and as soon as they are concluded I will be in a position to make public a date in which works will commence. In this year's Estimates there is a considerable amount of money for continuing a full programme of improvements to sporting facilities and we also intend to provide floodlights for the Bayside School outdoor playing area. This will give the community yet more sporting allocations. So, again, Mr Speaker, very noticeable improvements for sport in general. My congratulations to many Sporting Associations for all their achievements during the year. They have represented us in International and European competitions and conferences. I would also like to express my thanks to all those organisations that have invited me to accompany them abroad and although, because of previous commitments, I have sometimes unfortunately had to decline, I nevertheless thank them all and those I have been able to accompany I must say that it has been quite an experience to see how Gibraltar benefits, as a whole, when our sports people, who are such good ambassadors, do so well against much bigger nations.

I would now like to end my contribution, Mr Speaker, by sincerely thanking all my staff in my different Departments for their dedication and valuable support they have given me in providing better services for our people. Thank you, Mr Speaker.

MR SPEAKER:

The House will now recess for twenty minutes.

The House recessed at 5.15 pm.

The House resumed at 5.35 pm.

HON M K FEATHERSTONE:

Mr Speaker, this year the Estimates pose a number of queries which should be answered if we are to get a proper perspective of the financial situation for 1990/91. According to the financial statements, the planned deficit of £4.6m is an increase of £0.6m on the previous year and is probably the excuse used by the Government to say that there is no leeway to cut income tax. However, there are some very glaring shortcomings in the revenue side. Income Tax by fiscal drag increased almost £5m from 1989/90. This year the Estimates plan an increase of £1.2m. If you are going to have £4m increase in wages for the Government sector they alone will provide the £1.2m so what about the private sector? I would prophesy here and now that this increase in the current year will follow previous trends and will be nearer the £5m mark so the current revenue is being underestimated by at least £3m. People are paying over 20% to 25% more in income tax since the Government took office and there is no sign of any respite. When the Chief Minister was in Opposition he used to advocate thresholds in parity with the UK. Well, he is well out of step with the UK now where thresholds are 50% greater. There a Conservative Government keeps thresholds in line with inflation. Here a Socialist Government keeps its heel firmly on the electorate and refuses the slightest relief. Wages are rising steadily and the average wage today is £180 per week. The more you earn the more the Government soaks you for income tax. As an aside, I will comment, that the old age pension at present is £73 a week for a married couple and under the AACR formula, which we used to implement every year, it would have been upped to £90 a week to keep it in line with average earnings. Therefore pensioners are getting a raw deal from the GSLP Government. There is an estimated fall of

£½m in the general rates. Does this mean that we are losing property in spite of all the development that is going on? Rates increased from 1988/89 to 1989/90 by nearly £1m. I cannot see the trend being so radically reversed so it is most likely that another £1m will be added making the estimate unrealistic by £1.5m. Import duties rose over £2m from 1988/89 to 1989/90 yet this year they are only scheduled to rise £1m. Here again the Government seems to be estimating on the side of extreme caution. The same is the case with Stamp Duties which are scheduled to yield £400,000 less. The Currency Note Income Fund is also estimated to have a fall in yield by £360,000. This when we have a larger circulation of notes than ever in the region of, I believe, £12m at the moment and when interest rates are very high indeed. If you have £12m invested and you are getting 14% on it that is £1.6m, nothing near what is shown in the estimated figure. I would not hesitate to calculate that the year's outturn for revenue will be nearer £90m than the £85.6m in the Estimates thus reducing the deficit to a negligible figure. Of course, Recurrent Expenditure will rise as well. One feature is that all departments' Minor Works, which last year totalled £620,000, are put as a token £1,700. But if strict control is kept on expenditure it should not rise by more than £1m. A new feature is the £1.2m for the Head 'Supplementary Funding'. This is a cushion to contain rises during the year in departmental votes so the rise in expenditure of £1m that I have mentioned may be contained in the £1.2m Supplementary Funding and the total recurrent expenditure can be kept to the estimated £90.2m. This would produce a small deficit of only £0.2m with Revenue at £90m and will make the Government proclaim that they have balanced the books in their third year of office. The Improvement and Development Fund shows £25m from other sales. What is going to be sold to bring in this handsome sum? Perhaps the Minister for Trade and Industry in his intervention will give us some indication. The subvention to the Government Health Authority is cut by £1m. This augurs for another swingeing increase in Social Security Contributions when they come up for review in order to make up the balance. Another £10m goes to the Social Assistance Fund. How does this Fund stand now? There are no figures to show the state of the Fund although large sums are being poured into it. Perhaps the Minister for Labour and Social Security will tell us how healthy the Fund is today in view of the lack of information in the Estimates. I see that in the Improvement and Development Fund we are going to spend some £900,000 on a reverse osmosis plant. This seems to be a change of heart or a change of thinking on the part of the advisers of the PWD because in my days in office they were against reverse osmosis. I hope the plant will work and will not prove to be an expensive white elephant. I see that at last we have the Gibraltar Health Authority's Accounts for 1988/89. They show an overspending of some £674,000 which has been met by a loan from the Consolidated Fund. Will this ever be repaid or will this trend of overspending continue? More ammunition for the theory that the contributions to the

Group Practice Medical Scheme will go up sharply in the future. We in the Opposition do not regret any expenditure on our Health Services but let the Government come clean and say just how much is needed rather than overspend and then ask for the money. It will also be useful for the Authority to set up an internal audit machinery as this will help to curb excessive spending. This has been advocated by the Government Auditor. It is also worthy to note the £1.5m spent on the Group Practice Medical Scheme. The cost of drugs is much higher than the general level of inflation and about £½m was spent on sending patients to the UK and although this is money well spent, and I congratulate the Minister for it, it shows that this is a Budget in which revenue seems to have been considerably underestimated. The events of time will show this to be the case and the recurrent deficit will, in my estimation, be almost nil by the end of the year. Is it too much to hope that we will see some relief in income tax in the year 1991/92? It is getting near to an election year so it is about time we had some goodies. Thank you, Sir.

HON J C PEREZ:

Mr Speaker, before I go into details of the performance of the Departments which lie under my responsibility, I think several things have been said which need to be answered, particularly with regard to the comments made by the Hon the Leader of the Opposition. I am surprised, Mr Speaker, at what he has said, and which perhaps makes him the only political leader in the Western world, or even in the Eastern world, who would be cautious about foreign investment nowadays. But the reasons that he gave for being cautious, and which he described as neo-colonialism, I find even more surprising, since the position of the GSLP over the airport, for example, which is the example that he used, has been known before the elections, during the election campaign, immediately after the election campaign and today. One cannot say the same for Members opposite, and particularly for a particular Member opposite, if the rumours that one hears are correct. The point I am making, Mr Speaker, is that in saying that we should be cautious not to fall in this trap with foreign investors, the Leader of the Opposition loses sight of the fact that the growth in the economy that has taken place and that is taking place, is against the background of the policies of this Government. These are wellknown and we stand by them and we shall not fudge for the sake of any foreign investor or for the sake of expediency, Mr Speaker. It has been proved already that that is not such an important issue in terms of the kind of growth that Gibraltar is experiencing today. I now turn to the points made on infrastructure which I think were totally ridiculous for the Hon Leader of the Opposition to make. He said: "if the people had something to see on infrastructure", at least, I think those were his exact

words. Mr Speaker, it is ridiculous for the Hon Member, after his record in Government, to come out saying this when the two years that we have been in office alone compare favourably in some fields and in particular to infrastructure with the sixteen years of the AACR administration. When we came into office the legacy that was left by the AACR was not the Digital Exchange, it was that there was no sewage capacity even for the developments that they had approved let alone for salt and fresh water pipes, for the electricity supplies which would have been nil had we not taken immediate steps to correct the situation and get a contract to ensure that Gibraltar would have electricity for the next twenty years. Road resurfacing was something which was unknown and if you add to that the growth that we are experiencing then none of these projects would have been possible. For example, for road resurfacing they had estimated £80,000 compared to our £400,000 and the Hon Member is saying that we have failed on infrastructure and that if the people were at least seeing expenditure on infrastructure. Has the Hon Member not looked at the Improvement and Development Fund? Development and infrastructure is everything that is in the Improvement and Development Fund and yes, the people are seeing it, of course they are seeing it, Mr Speaker.

I will now turn to the other point which the Hon Member made which is this legacy that they left us, the Digital Exchange. The legacy was not the Digital Exchange, the legacy they actually left us was a very bad deal which they had negotiated with British Telecom and which we had to renegotiate. Whereas they had already accepted, signed and sealed a 4,000 line exchange as part of the deal, in the renegotiation, we obtained a 10,000 line exchange which we then increased by an extra 4,000 lines and which were paid by us. Therefore the Hon Member cannot say that it was his idea and his package because he knows very well, because I have been telling this House over the first six or seven months when we came into Government, of all the renegotiations that had taken place as a result of what we would describe as the very bad deals done by the previous administration and I am glad to say that we have been able to renegotiate and we have been able to, at least, get a decent package out of the legacy that they left behind. Mr Speaker, the Hon Leader of the Opposition then goes on to say that when he was in Government he had been against the commercialisation of the Telephone Department but I remember what one of his previous colleagues used to tell me, I am referring to Mr Brian Perez, that they were not prepared to go ahead with this proposal because they did not think they could pull it through and deliver such a deal. Not as the Hon Leader of the Opposition has said because of political objections. I am not surprised that they have not criticised.....

HON A J CANEPA:

If the Hon Member will give way. There are colleagues here of mine who will testify to what I have said that there was a considerable majority of Council of Ministers who objected politically and it was a vast majority in Council of Ministers.

HON J C PEREZ:

That is not the information I had from his colleague but, fine, be that as it may, it is still a mistaken objection and I will tell the Hon Member why. Mr Speaker, Gibraltar is very small and Gibraltar has to survive in this outside competitive work and we could not keep up with the kind of technology that is taking place in telecommunications or give the up-to-date service to the finance centre if we were to go it alone like the Hon Member has suggested. We have learned this through the experiences of the joint venture which the previous Government completed with British Telecom. The advantage of having the same telecommunications partner as the one supplying the City of London with telecommunications was a step in the right direction. I have just added to that telecommunications partner that supplies the City of London with telecommunications with a new company that supplies the telecommunications to Wall Street and that is a source of comfort to investors coming into Gibraltar who know they can rely on a quick and rapid service. Mr Speaker, the technology that is being produced is being held back by manufacturers because it is moving so quickly that manufacturers would lose a lot of money if they were to change this technology with their own manufacturing processes. No sooner have they put out a new product into the market than there is a different one out already. The people who are investing in this technology are being approached by manufacturers and these ideas are being purchased from them so that the products that are being manufactured have a timespan in which they can be marketed. That is the kind of business we are in and we are too small to be able to keep up with that and we have to give that type of service because that is what the customers in Gibraltar want. That is the type of investment that we are attracting. Apart from that, Mr Speaker, when you go in with a partner like Nynex or when you go in with a partner like British Telecom and you to buy a Digital Exchange, for example, then the company says: 'Let us look at the customer and how much purchases we have had from Gibraltar'. And they say: 'Yes, the Exchange will cost you Exm'. However if one of your partners is Nynex and another of your partners is British Telecom and you buy the equipment through them then they look at the customer which is either British Telecom or Nynex and they will give you a realistic price for the Digital Exchange because these companies have turnovers of millions of pounds. That, Mr Speaker, is what we have bought. But, of course, the Hon Member has not criticised the package as such because he cannot. He has criticised the



principle because he cannot criticise the package because it is a very good one for Gibraltar and he knows it and so do the rest of the Oppositio.

HON A J CANEPA:

Do we know?

HON J C PEREZ:

Yes, I made it public. If the Hon Member has not read it it is not my fault, Mr Speaker.

Mr Speaker, the Estimates of Revenue and Expenditure reflect the changes that have taken place in the restructuring of the Government Services throughout the year. Hon Members will note, as the Hon Mr Canepa has, that the Telephone Service still appears as a Government Department. As the Chief Minister explained previously, this is because the effective date of the joint venture entered into with Nynex International did not come into effect until the beginning of May when the Estimates had already been published. The final result of the Estimates will not be affected, however, because the decrease in expenditure as a result of the joint venture will be offset by an equivalent decrease in revenue. As happened with Gibtel, the Government's investment in Gibraltar/Nynex is held by the Telecommunications Fund. This completes, Mr Speaker, the full restructuring of our telecommunications service and augurs well for the future in that it is intended to provide subscribers with a more efficient, modern and sophisticated service. Although the main thrust of the improvements in the network, as I have said, is primarily aimed at the Financial Services community, it will also greatly benefit domestic subscribers in both the range of new services that shall be provided and the quality of the present service. Over the past year, the community as a whole has had to put up with an unsatisfactory state of affairs because of the transition to a Digital Exchange. The demand on our resources in terms of both staff and capacity was such that it was impossible to do better. I am glad to report that the new Digital Exchange has already proved to be a tremendous success. It has also allowed Gibtel to increase their capacity for international calls thus doing away with the much dreaded delays in communicating with the outside world. New services arising from the Digital Exchange will be available to the public shortly. The transformation of our telecommunication service from a second class standard to one of the best in the world, has only just began. It is a vital ingredient to the success of our economy and to attracting new business opportunities for Gibraltar. I would like to thank, Mr Speaker, all those concerned for their cooperation and support in the fruition of Government policy in this area.

Mr Speaker, I now turn to Postal Services where a number of improvements have taken place during the year, both in the local and overseas arrangements. As from the beginning of this year we have introduced an outgoing Datapost Service for items addressed to the United Kingdom. Arrangements are in hand to extend this service to other countries using the British Post Office as an intermediary administration. Outgoing surface parcel post which was previously sent by sea to Great Britain about once every three weeks, is now routed overland through Spain thus providing for weekly despatches. Facilities for the encashment of postcheques has been extended to include cheques issued in Switzerland. We have also finalised agreements with six other Postal Administrations to accept incoming datapost items thereby increasing the incoming service to eighteen countries. As far as the local service is concerned, there is now 24-hours access to the PO boxes following the installation of a security alarm system. We also purchased bomb-detection equipment for use in the Sorting Office to provide greater security for the postal service. On the Savings Bank, Mr Speaker, following the amendments introduced earlier this year, it is now possible for joint accounts to be operated on one signature and for transactions to be undertaken by correspondence. We have also introduced the One-year Fixed Term Deposit Bond offering investors greater return for monies invested. Arrangements are already in hand to increase the amount which depositors may withdraw on demand from £30 to £100 thereby allowing greater flexibility to depositors. The introduction of the legislation regulating CB radios has resulted in licences being issued to eighty CB enthusiasts. Philately, Mr Speaker, tells a different story. We have continued to attend Exhibitions overseas, the last one being in London two weeks ago, which proved to be a resounding success for both the British Islands and ourselves since, being a British Postal Administration, we were able to take full opportunity of the 150th Anniversary of the Penny Black. However, stamp collecting is on the decline worldwide and Gibraltar is no exception. Nonetheless, there is evidence that certain postal administrations are tapping new markets and doing better, and after having recently discussed matters with our agents in central Europe we might be taking some new measures shortly. Quite apart from this, a study is presently being undertaken on how best to restructure the Philatelic Section to try and make it more cost effective. Hon Members will recall that an investigation instigated by the Government of Gibraltar in 1989 into the availability of Gibraltar stamps in the local market below face value, resulted in Scotland Yard in the United Kingdom making several arrests. The Metropolitan Police was already investigating certain matters in UK at the time. I have just returned from the United Kingdom where I held a meeting with Scotland Yard who have concluded that, although their own investigation continues, there is no evidence to ascertain that Gibraltar stamps have in any way been manipulated. They have, nonetheless, welcomed the introduction of legislation



earlier this year prohibiting the importation of consignments of Gibraltar stamps into Gibraltar with a face value in excess of £25. We shall therefore be informing collectors of Gibraltar stamps of the result of the investigation thus restoring confidence to those who support Gibraltar Philately.

I now turn, Mr Speaker, to the Electricity Undertaking where Members will have noted that provision is being included in this year's Estimates for the purchase of electricity from Omrod Diesel. Provision has been made in the recurrent expenditure for the actual cost of the units being purchased, appearing under the Improvement and Development Fund since these costs are considered as depreciable assets as a result of the terms of the contract with Omrod. We might find this year that there is a certain amount of duplication whilst King's Bastion Generating Station remains in operation. King's Bastion will close down when there is sufficient capacity available in the new Station to take over its operations also and any increase in demand. We are expecting to have reached that stage early in 1991. In the meantime a restructuring of the Department needs to take place to reflect these changes and ensure the availability of employment for all those affected. Many will have reached retirement age by that time and others will need to be redeployed. Some moves in this direction have already taken place, although I regret to say, not without problems. The City Electrical Engineer, Mr Victor Bensadon, is to retire shortly. His Deputy, Mr Tony Aguilera, will be taking over as City Electrical Engineer in his present grade and the post of Deputy City Electrical Engineer will disappear. This has been agreed with those affected. Let me take this opportunity to record my appreciation to Mr Bensadon for his personal support to me during my two years in office and for the service he has rendered Government for many years. His skills as an engineer are indeed unsurpassed as is his devotion to duty. I am sure all Members will join me in wishing him the best on his retirement.

I now turn, Mr Speaker, to those aspects of Public Works which still fall under my responsibility. I say this because, as it now already known, a large chunk of the Department was recently passed on to my colleague Michael Feetham. This includes road surfacing where I am happy to report that the programme completed this last year exceeded that which had been planned. This is reflected in the increase in expenditure under that Head in the Improvement and Development Fund - the Hon the Leader of the Opposition please take note. Hon Members will recall that Refuse Collectors passed on to a company under new conditions. Although there has undoubtedly been an improvement in this area, the full impact of it will not be felt until the new refuse vehicles have arrived. The new bin lifters which have already been ordered will be able to lift a variety of bins and this will enable us to purchase new bins with lids and place them in different areas of our City thus providing a

further incentive for people not to dump their refuse on street corners. May I take this opportunity, Mr Speaker, to remind the general public that there is a very efficient collection service operated by the Department for those wishing to dispose of old furniture, etc. It is there for free, the important thing is that people should learn to use it. Refuse disposal continues to be a problem. Government have been studying a wide range of proposals which have been put to us by commercial entities. In our strive to find a cost effective, environmentally sound and practical long-term solution to the problem of how we dispose of our refuse, we have studied a wide range of methods of doing this. In the meantime, because new EEC directives have an immediate impact on the cost of any operation, we are striving to tap EEC funds for this purpose and in this context I recently met officials at the Foreign and Commonwealth Office. In view of the fact that we knew we were going to take some time in looking at sound alternatives, earlier this year we went out to tender to seek a commercial arrangement for the disposal of our refuse during those periods of time when the incinerator was out of order. Only one company but in a bid - and let me stress this for the benefit of the Leader of the Opposition who seemed to suggest otherwise recently in a Question - and the tender was awarded on the understanding that this company had already investigated the possibility of tipping at Los Barrios. Correspondence passed on to me by that company suggests that political impediments are being put in its way by our neighbours and that therefore whilst this persists, the company is unable to honour the tender. Hon Members will recall that I have repeatedly said in this House that what the Spaniards want is a political deal and not a practical commercial operation. Their attitude proves, once again, that they are neither concerned for the environment nor our welfare but to advance their claim over Gibraltar in every aspect of our daily relations.

I now turn, Mr Speaker, to the Fire Service. During 1989 the City Fire Brigade attended a total of 1,076 emergency calls, this is the second highest number of calls ever attended. The Department is to be congratulated in its operational procedures and efficiency particularly as regards the fire on the Upper Rock, which involved the Brigade's total strength over a period of 48 hours and the severe flooding over several days of heavy rainfall during which the Brigade answered 111 calls in 48 hours. Recently the Brigade also successfully rescued two men from the East side of the Rock. These three incidents clearly show the wide range of emergency incidents covered by the Brigade. The Fire Prevention Department is heavily committed with the wide range of development and growth taking place throughout Gibraltar. In fact, it is pleasing to note that this small section has gained a reputation for professionalism and expertise from architects and developers. In March of this year the senior management team was increased by one senior officer as part of an upgrading. This became necessary as a

result of the Brigade's wider role in the field of emergency planning and follows the European trend where Fire Services are absorbing similar responsibilities. As for the future, the Brigade has its own development plan which should ensure that Gibraltar has a Fire Service which is well equipped, efficient and capable of meeting demands on its services and fulfil public expectations. The Government, obviously, supports the Brigade's plans.

I will now deal with Traffic and Transport. The benefits of the agreement that Government reached with the Public Service Vehicle Operators Association are now apparent. A considerable number of new buses can be seen on our roads and the frequency has improved noticeably. There is still room for improvement in some specific areas and these are being paid particular attention now. There are plans to further improve the services but these are, to an extent, dependent on the completion of certain construction developments and major infrastructural work on some of our roads. A comprehensive agreement was reached with the Gibraltar Taxi Association during the course of last year. Meters were introduced and a general standardisation programme was introduced which will be finalised by the end of this year by which time all taxis will be white in colour. Here too, a general improvement on the service can be appreciated. We continue to work with the Taxi Association with a view to further improving the services generally. An agreement in principle was reached with Spain for taxis and private hire cars to be able to operate to the other territory on reciprocal terms. We are hopeful that it may be possible to implement the agreement in the not too distant future. The composition of the Traffic Commission was amended to include representatives of both the Gibraltar Taxi Association and the Public Service Vehicles Operators' Association. This was one of the aspects included in the agreements reached with these bodies. The expertise that they have in transport matters generally, and in their own fields, in particular, can only but complement the work and deliberations of the Commission. Government is continuing with its efforts to clean our roads of derelict vehicles. Only recently another exercise was carried out in some parts of Gibraltar and it is our intention to keep up the pace. As for parking, the schemes for the creation of car parks in highly populated areas are advanced but no final decision has been taken yet. The intention is to either sell or hire parking bays to residents in those areas. Government has also regulated, only this morning, for a mandatory number of parking bays to be provided on all new residential developments. More parking meters will be installed in other central areas of town as soon as the equipment is received. On the international aspects of road transport, and in particular road haulage, Gibraltar has been included in a number of agreements the UK has with different European countries. This means that our hauliers now have the opportunity of extending their operations further into Europe. This, together with the general EEC liberalisation

moves towards the Single Market in 1992, will provide great opportunities in this particular field. May I take this opportunity, Mr Speaker, to thank all members of the Traffic Commission for their hard work during the past year and particularly the Chairman and the two independent members who continue to put in many hours without any sort of remuneration.

Mr Speaker, before I enter into the Prison Service, which is my last Department, I am reminded that the Hon Mr Featherstone raised the issue of the Reverse Osmosis Plant and said that there must have been a change of heart on the part of the advice given to this Government. There has been a change of heart on the part of the advisers, particularly so because I think the Government, politically, were convinced before the officials that Reverse Osmosis Plants, were a viable proposition. Since then, and since the operation of the PSA plant, even the officials are convinced that it will not be a white elephant as the Hon Member has suggested.

As far as the Prison Service is concerned, Mr Speaker, I am glad to report that the new Superintendent has consolidated his position over the year and that, together with his staff, is to be congratulated for a job well done. The number of inmates has fallen over the past year and certain minor works have been effected, although the major security works are still to be carried out and have been delayed as a result of the non-availability of material. Although I have stressed there is no commitment whatsoever to move the Prison from its present location during this term of office, Government is nonetheless looking at possible sites to do this in the future. Press reports are not a good indicator.

Finally, Mr Speaker, Hon Members will note that the underlying commitment of this Government to provide a more efficient and cost effective service to the community has not been lost on us. We continue to strive to do better and in the process provide the necessary ingredients for the new economic framework which we are building in order to survive as a community in the very competitive commercial world in which we live in. I always finish off by saying that there is still a lot more to be done but only after listing all that has been done already. Progress follows progress and therefore it would not be too optimistic to expect a similar, if not a better, result next year. Thank you, Mr Speaker.

HON K B ANTHONY

Mr Speaker, I am not going to speak at depth on this particular debate, but I am going to start off by saying how much I regret that there is no Finance Bill. I have to say this, and as I said last year and no doubt I shall say again next year. It would have been a very pleasant bonus, Mr Speaker, to many of the population of Gibraltar if there had been some concession to help them with the rising cost of living. As my colleague, the Leader of the Opposition has said, tax levels are now over 20% higher than when the AACR Government was in power. This is a regrettable situation but it is a fact of life and I feel strongly that a Finance Bill to help members of our community would have been an advantage. I have been looking through the Estimates very closely. I am not going to go into the Estimates, Mr Speaker, that come out of the Consolidated Fund, we will have enough time for that at the Committee Stage and Third Reading. But those of the Improvement and Development Fund for £13m to be invested. I am going to use a term that I am sure everybody is familiar with to obfuscate, to hide away and to conceal, and these Estimates are basically an obfuscation, they are hiding things away. You get a broad general outline but you get no detail and you have to drill away to try and get details and it is like extracting a bad tooth without an anaesthetic at times. A lot of them are unsuccessful but we are going to keep trying. Looking at the Housing Head I see that we are going to invest £4m this year but apart from that there is little else of great investment value here, painting of Government houses only £½m; refurbishment of Government housing £700,000, very, very vague. Under Education, the bulk of the money goes to the repairs to Bayside School and there is a Feasibility Study. It does not say what the feasibility is about, is the feasibility about 1992 and its effect on education in Gibraltar? Is the feasibility on getting all the children under one Head? I do not know. It is a vague term, obfuscation again. Tourism, one of the points that I always like to have a go at because I think that now that we have a Gibraltar Tourism Agency it is getting harder and harder to pin them down to what they are doing with the money. For example, we have £30,000 for improvements to planted areas. Now, does this include the Alameda Gardens which is basically our one and only park? I do not think that is a large sum of money and if it is not including the Alameda Gardens, then it is perhaps too much for the remaining small little areas around. It is a vague term - "Improvements to Planted Areas". What is a planted area? Is it window boxes on the bus station down at Market Place? I do not know exactly what is meant by a "planted area", perhaps the Minister will explain.

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HON J E PILCHER:

At the Committee Stage I will tell the Hon Member unless he wants an explanation now.

HON K B ANTHONY:

I sincerely hope the Hon Minister will explain. I am saying that this is again a vague heading which is very difficult to pin down at this stage and I do not think we should go into Committee Stage and have every 'i' dotted and 't' crossed, there should be more explanations not just a vague broad heading. Going back to this morning when the Hon Chief Minister spoke about some of his plans for the future, he spoke of an Employment and Training Unit to be set up under the ambit of the Gibraltar Development Corporation and that he intended to introduce a Training Ordinance and yet, over the past two years, the Government's history on training and apprenticeships has been abysmal. There has been none. I do not think that an apprentice has passed through the works in the past two years and now all of a sudden training is important and it is going to come under the umbrella of the Gibraltar Development Corporation, rather a change of face there I am afraid. I get the feeling that the Gibraltar Development Corporation, Mr Speaker, is seen as a potential panacea for all the things that the Government could not do, Employment and Training Unit, Business Registration, what they could not do in the previous two years the Development Corporation is now going to wave its magic wand and do all these things. The Hon the Chief Minister spoke of enabling legislation to get people to invest in Gibraltar and not outside. Well, there is only one way to get people to invest in Gibraltar and that is to make it more tax free, make it less liable to taxation. People will not invest money here unless it is going to benefit them financially. If they can go somewhere else they will invest their money elsewhere.

HON CHIEF MINISTER:

There was an amendment in the Income Tax Ordinance in 1988, if the Hon Member looks back.

HON K B ANTHONY:

But if people are still investing abroad, Mr Speaker, then perhaps it was not sufficiently far reaching. Visits to Gibraltar by Members of Parliament and MEP's, we are having a sum of money this year the same as in previous years. I cannot help wondering, Mr Speaker, why the sum of money has not been increased. We are coming closer and closer to 1992. This is the time when we need more and more friends in Europe and if by spending more money we are going to get more MEP's over here to fight our cause, then it is

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money well spent and I think this is something that should be seriously considered. The Hon the Chief Minister spoke of Crown Lands in July becoming privatised and the possibility of our water supply being privatised as well as plans for the Philatelic Bureau. From our point of view this is not an achievement because once anything is privatised in Gibraltar they become an imponderable, we do not know whether they are making money or whether they are losing money because the Accounts no longer come to this House. So although from the Government's point of view a joint venture company might be of great advantage, they are asking us to accept that on face value, because we have no way of checking in this House. Accounts do not come to this House and every time something is privatised it is something else on which we have no check, so therefore we cannot regard it as an achievement. If I can refer very briefly to what my colleague believes the Opposition said in his contribution to the debate, Mr Speaker. He spoke about sand not returning to the beaches on the Eastern side. I am not going to mention any names, Mr Speaker, but I did write about this to a particular Minister eighteen months ago who passed it to another Minister and I am still waiting for a reply on this very question of the possibility of sand not coming back. My colleague also spoke of empty offices and questioned the viability of the Europort with further offices. When I speak of development I like to see things happening. Development is not an empty site and yet not so far from here, on Queensway, there is a development site that, to the best of my knowledge, has been absolutely static for six months. Again, an example of development that is not continuing as development and no doubt the Hon Minister will be speaking on this when he makes his contribution. I must reiterate what my colleague said, the diminishing powers of the House of Assembly by the increasing use of Regulation that is being adopted by the Government. It is a pity that the powers of the House of Assembly are being reduced since it is important that we have an active Opposition in our democracy and every time that powers are taken away it reduces the overall power of the Opposition and thereby reduces the House of Assembly's powers and that, I think, is wrong. If I can refer very briefly to what the Hon Minister for Government Services had to say. The Hon Minister spoke of the telephone system and I am the first to agree that it is now a much better system than it was six months ago. The Minister also said, Mr Speaker, that in the future it will aid the Financial Services Industry obviously, and it will aid customers with a new range of benefits and that there will be new services, a Digital Exchange which will be available to the public shortly but I cannot help wondering at what price. Because the Financial Services Industry can pass on the cost to its customers but the domestic consumer cannot pass on theirs. This is an imponderable and I am sure the Minister will agree that we do not know what it is going to cost the customer. I agree that the Minister may well know, Mr Speaker, but we in the Opposition do not know at this stage.

HON J C PEREZ:

If the Hon Member will give way.

HON K B ANTHONY:

Of course.

HON J C PEREZ:

Mr Speaker, the standard rates for providing a telephone are to remain as they are now. If there are added services and added improvements other than the sole purpose of having a telephone then they must find their level in the market and if there is a demand for it, then it is priced depending on the demand and depending on the market. Some of these things will be available to everybody and some will be specifically for the business community. They will be marketed depending on the market.

HON K B ANTHONY:

Thank you, Mr Speaker. I do understand that. But it does come back to what I said, that if you are in the Finance Centre and you buy a piece of equipment that is going to enhance your business the cost will be passed on to the customers whereas if it is a domestic consumer and he buys something extra he has to pay. What he will have to pay, I do not know but it may well be that this equipment will not be bought by the domestic consumer because they are doing to be too expensive. Again this is something that we will have to wait and see. Turning very briefly to the Electricity Undertaking, I can see that it is getting to the stage where Omrod is going to achieve in 1991 what I said last year, that it is going to become the prime provider of electricity in Gibraltar and Gib Elec will be a "top-up" supply. I think that that is a serious state of affairs, Mr Speaker, because, as the Hon Minister has said, it is going to lead to restructuring, retirement and re-deployment of staff.

HON J C PEREZ:

And that is why it is serious?

HON K B ANTHONY:

Yes. It is very easy to be smug about it when you are not one of the people being restructured, re-deployed or retired.

HON J C PEREZ:

Mr Speaker, I am being restructured all the time!

HON K B ANTHONY:

On a serious note, Mr Speaker, I am sure everybody on this side of the House will join me in reiterating the Hon Minister's words of congratulations to Mr Victor Bensadon for his many years of excellent service and wish him a very long and happy retirement.

I was interested to hear, Mr Speaker, about the Public Works Department and the new tippers that have been ordered with lidded bins. I do not know whether these lidded bins are going to be supplied free of charge by Government or free of charge by the joint venture company or whether the poor old domestic consumer will have to go out and buy a lidded bin to fit the tipper. I do not know. No doubt we will find out in the future. I appreciate, Mr Speaker, the political impediments being put by Spain to prevent tipping in Los Barrios. I cannot help asking, what now? Where do we go from here? Do we continue tipping in the sea for the indefinite future? It is something that has to be answered some time. One of the most remarkable developments, Mr Speaker, has been the way that the Government has deliberately set out to give more information. However, they do it by hiding matters and a very good example of this is the Fuel Cost Adjustment that changed to the Flexible Cost Adjustment. What a difference the changing of that first word has made. In this manner by calling it a "Flexible" Cost Adjustment the Government does not have to come to this House to increase the electricity charges. Because any increases or variables other than fuel with the Fuel Cost Adjustment would not trigger the cost. But "Flexible", if wages go up or the cost of spares increase suddenly, these can be included under this lovely umbrella heading of "Flexible Cost Adjustment" and when it does this it does not have to tell the public because it is "flexible" and covers the whole range. The Government goes ahead and implements this, as it did four times between August last year and February of this year, and then the Chief Minister who is perhaps economical with the truth on occasions, does not have to explain. With the Fuel Cost Adjustment under the AACR fuel actually went down. It went down from 0.87p to 0.04p in August last year and then up again after it was replaced by the Flexible Cost Adjustment.

HON CHIEF MINISTER:

No, Mr Speaker, that is not correct. The Hon Member is responsible for the accuracy of the statements that he makes in this House and what he is saying is not true and I was not being economical with words. What I said on television was that the Formula had operated exactly the same way in the two years we had been in Government as it had operated, since it was introduced in 1978, by the AACR Government. I also said that in the intervening period

since we took office it had changed seven times, four times going down, three times going up and after all seven changes it was still lower than when the AACR were kicked out of office. Those were the words that I used on television and consequently it is misleading to tell people that we were charging more for electricity now than when they were in Government. There has been no change in the formula, Mr Speaker. We have created enabling powers and if the Hon Member had done his homework, which he is paid to do, he would know that the enabling powers are not being used.

HON K B ANTHONY:

Well, Mr Speaker, this may well be the case but I must go on to end by simply saying that I feel sincerely that the economic policies of the GSLP Government is an exercise to put into practice certain economic theories and this could lead to a very, very dangerous situation. All theories have loopholes because if they did not have loopholes they would not be theories and therefore I fear that the Government is going too fast to be able to avoid these loopholes. It is an economic rollercoaster which could, as my colleague the Hon Mr Canepa has already warned, lead to bankruptcy. The only safeguard in any democracy is the ability of an active Opposition to be an effective watchdog and we are seeing week after week, Mr Speaker, the powers of the Opposition being eroded by joint venture companies, which are not accountable to the House, by the creation of the Gibraltar Development Corporation which, again, is not accountable to the House and rule by Regulations which does not have to come to this House. Nevertheless, Mr Speaker, despite all these factors we will continue to attempt to influence the GSLP Government, whenever the opportunity arises, to ensure that Gibraltar for the next generation is preserved and not destroyed as a result of the economic theories being put into hasty practice. And also by the secrecy, and for the last time in my contribution, by the obfuscation being used. Thank you, Mr Speaker.

HON R MOR:

Mr Speaker, the Hon the Leader of the Opposition made a reference to "a building over there" where he said that there were queues. Let me tell the Hon Member that if he was, in fact, referring to The Haven .....

HON A J CANEPA:

No, Mr Speaker, the queues at The Haven form outside the public eye, I would say. The queues that I was referring to this morning were there openly in a balcony and that is why as I came by into the House I could not help seeing

that there was a row going on. No, it is not the DLSS that I was referring to. I think it was where people go to make complaints, the Arrears Section of Electricity and Water. I think it is there, Mr Speaker.

HON R MOR:

I am grateful, anyway, Mr Speaker, for the clarification. The Hon Member did, however, accuse us of making holes all over the place. I hope he is not going to blame us for the hole in the ozone layer. Mr Speaker, as you may recall, we said prior to the 1988 election that Gibraltar had two main resources, our land and our people, and it is how we utilise these resources that our identity and our survival depends. The utmost importance is therefore being given by the Government on how we utilise our people. We must ensure that the contribution of our own people is maximised so that the future prosperity of Gibraltar is assured by depending as little as possible on imported labour. That way the wealth generated by our people's efforts is retained within Gibraltar. It is commonly known, Mr Speaker, that currently, the labour market is being subjected to a changing pattern. This new pattern shows a marked shift from a declining public sector to an increasing demand in the private sector. The Government, therefore, considers that we must all ensure that the Gibraltarian is encouraged to take up the new job opportunities which are currently arising in the private sector. To this end, our Youth Employment and Training Scheme is playing a major and important role. Most of the youngsters joining our Scheme are being directed into job opportunities in the private sector. This, in effect, means that with the current lack of job opportunities in the public sector and with the impending contraction of the Ministry of Defence presence in Gibraltar, the future of our youngsters is being guaranteed by their orientation towards securing jobs in the private sector. Let me say, Mr Speaker, that prior to the 1988 Election there was relative widespread concern amongst parents in Gibraltar about the difficulties which their sons and daughters were encountering in finding employment once they left school. It was, in fact, true that youngsters were finding great difficulty in finding jobs and this was mainly due to lack of qualifications, lack of training in specific areas and simply lack of work experience generally. This placed a considerable handicap on these young people when they had to compete for jobs in the labour market. Let me say, Mr Speaker, that the problem of youth unemployment is by no means a problem particular to Gibraltar, it is recognised as a serious problem worldwide and very much so in Europe itself. In fact, the European Community is recommending that Member States should all introduce Training Schemes during 1990 in order to ensure that they keep down the unemployed youth population. It is therefore a matter of pride for the Government, Mr Speaker, that many of the

recommendations which the European Community has been making to Member States had already been introduced in Gibraltar in 1988 when our own Scheme was introduced. Mr Speaker, our Youth Employment and Training Scheme has achieved what we set out to do and which is to secure employment prospects for our young people. We have been very successful in this respect and this can be demonstrated by statistics. Since the Scheme started in October, 1988, Mr Speaker, 131 young people under the age of 18 have been employed full-time through the Scheme. Another 129 youngsters under 18 are still in the Scheme with guarantees of full-time employment at the end of their training period. Since March, 1989, when we extended the Scheme to cover those who were aged between 18 and 24, another 29 young people aged between 18 and 24 are also in full-time employment through the Scheme. In addition, a further 40 are still undergoing training, again with guarantees of employment. Despite the good results, Mr Speaker, it does not necessarily follow that we are completely satisfied. I keep impressing on those who are responsible for the Scheme that there is always room for improvement and we are always trying to find ways in which this can be improved. This is why during the year we have introduced new courses which run parallel to the Scheme and these courses are designed to improve the quality of training and enhance the Vocational Cadets' training and experience. The new courses which have been introduced so far, Mr Speaker, include a Basic Electrical Course. This course is aimed at providing core skills in Electrical and Refrigeration Engineering. It means that those young people undertaking employer-based training can be day released to obtain theoretical training which will no doubt enhance the quality and be an addition to the practical training that they are receiving from their sponsors. Another course introduced is a Food Hygiene Course and this is obviously aimed at Vocational Cadets in the food trade. This course is designed to provide awareness and social skills in the preparation and handling of food. We have also started a Mechanical Course which is primarily aimed at the Motor Transport Industry and provides basic skills in Motor Engineering. Again, Mr Speaker, the idea of this course is to provide theoretical training to go hand-in-hand with the practical on-the-job training which the Cadets are receiving. A further course that has already been introduced is an Information Technology Application Course, an ITA, which is designed to provide skills on the use of computers in business. This course runs for a period of 15 weeks and each trainee is allotted six hours per week. There are currently 30 Cadets making use of this course and all indications are that the course will be repeated after the completion of the 15 weeks period. It is also intended to provide shortly further courses in Practical Office Skills. As I have already said, Mr Speaker, all these courses run parallel to the actual on-the-job training which Vocational Cadets are receiving with their prospective employers and they are intended to enhance the training aspect. Another



event which took place during the course of the year in connection with the Scheme, was the launching of the Vocational Cadet of the Year Award Scheme. This "Scheme within the Scheme" came about as a result of sponsorship by two local firms, Air Europe and Exchange Travel, who very kindly donated an amount of money to our Training Scheme for us to put to good use. The Cadet of the Year Award will go to the best Cadet judged by a Selection Committee, which will select an overall winner and runner up and will also recommend some consolation prizes. All Vocational Cadets will be split into five different groups related to their occupational aspirations and after close consultation by means of questionnaires between the Scheme Monitors, Supervisors and Employers, five finalists, one from each group, will be shortlisted and the Cadet of the Year will be chosen. I think, Mr Speaker, I have to say that I have been most impressed by the enthusiasm and positive manner in which employers have participated in the Scheme. We have had many instances where employers have taken on Cadets on full-time employment long before the end of their training period and this is something which the Government very much appreciates and encourages. I also think that the fact that firms are prepared to donate funds to the Scheme demonstrates the high regard and the confidence which employers have on the Government's Youth Employment and Training Scheme. Mr Speaker last year I drew attention to the fact that we had encountered problems in producing legislation in order to enable us to set up the Employment and Training Board. As you know, the purpose of this organisation is to examine the manpower needs of Gibraltar and to ensure that we meet those demands as much as possible from our existing human resources. This organisation would also be responsible to keep an adequate control of the labour market and equally be responsible for the training of our people to meet future demands by matching the training needs with the job opportunities available. As I said last year, Mr Speaker, some complexities in producing adequate legislation resulted in delaying the setting up of this organisation. However, Mr Speaker, as the Chief Minister pointed out earlier the enabling powers given to the Gibraltar Development Corporation, will allow the Corporation to make use of human resources and it will now be possible to set up an Employment and Training Unit under the Corporation. The Government is in the process of looking at this at the moment.

Mr Speaker, in connection with the handicapped, there have been some events which have taken place during the year and which I feel should be mentioned. Apart from the fact that the Government is already committed to provide and has already, in fact, provided funds for the building of a new St Bernadette's Occupational Therapy Centre, there is something else that has been done during the year which is very important for those concerned and those who were involved. I am referring to the Special Olympics of Gibraltar. Mr Speaker, the Government has given recognition

to the Special Olympics as a Sporting Body in their own right and they will therefore be entitled to any sports grants and be in the same position as any other Sporting Association in Gibraltar. I am also happy to say that we were able to open St Bernadette's during the summer months on two days a week. This offered parents a respite which they would otherwise not have enjoyed due to St Bernadette's being closed down as a result of the summer holidays.

Mr Speaker, there have been changes in connection with the Social Services provided in Gibraltar. As the House is aware and as has been pointed out on many occasions, the Government will not be making any public statements in this connection in order not to run the risk of being misquoted or misinterpreted. The Government has, however, already said that it is prepared to provide any information to the Opposition, on a strictly confidential basis, whenever Opposition Members so wish. The offer still stands.

Lastly, Mr Speaker, I would like to record my appreciation to my staff at the Department of Labour and Social Security, to the staff at the Family Care Unit, to those who in any way have anything to do with the running of the Youth Employment and Training Scheme, to the staff at St Bernadette's and the staff at the two Children's Homes for the support and assistance given to me during the course of the year. Thank you, Mr Speaker.

HON DR R G VALARINO:

Mr Speaker, Sir, speaking on the general principles of the Bill, my speech follows very much the line taken last year in my intervention. Again this year the obvious salient facts that emerge from the Estimates of Revenue and Expenditure is the gradual reduction of the level in the Consolidated Fund, at least for the next eighteen months, and the continued increase in expenditure in the Improvement and Development Fund. Now, looking at the Estimates, if one looks at the forecast Recurrent Revenue, this is £85.6m. Last year the forecast figure was underestimated by nearly £6m and I feel that the same degree of underestimation has taken place this year in the preparation of the Draft Estimates. On taxes on income, taking into account the increase in employment levels and take-home pay, the figure of £35½m is low in consideration to revenue last year. The figure for indirect taxation is similarly not totally realistic whilst the figure for internal revenue actually shows a drop, far in excess than the mere removal of the Airport Departure Tax. I estimate that the total revenue figure will have been undercalculated by a similar £6m. As it is obvious that the Government wants to keep a controlled rein on Supplementary Funding, as the Hon the Chief Minister has pointed out, the figure of £1.2m has been provided for Supplementary Funding. This is included in projected expenditure and an appreciable surplus of

revenue over expenditure should be the end result. Following the pattern set last year, a further amount of £10m has been set aside for the Social Assistance Fund and £4m for the cost of "Pay Settlement" in 1990/1991. Taking these figures into account and the removal of certain items of expenditure, ie The Telephone Department Vote, consideration should have been given for a sizeable reduction in Income Tax specifically to help those in the lower income group. Because these are the ones who are falling behind in their earnings capacity in order to meet increasing living costs. Justice must not only be done but must be seen to be done. In dealing with Departmental Heads, I would like, first of all, to deal with the Labour and Social Security. I note a reduction in the figure for the Occupational Therapy Centre of £2600, yet three new Classroom Aides appear in the establishment. I wonder whether there are any posts which are vacant and, if so, which are they? I welcomed last year the opening during the summer months of the OTC two days a week. I hope this will continue this year and I urge the Minister that if possible this should be increased to three days a week, thereby providing a valuable service to those handicapped adults and providing great help and relief to those parents who deserve every praise. I notice that the Family Care Unit staff remains totally unaffected and I welcome this as they perform a thankless task. This brings me to another point. The Treasury Subvention for the John Mackintosh Homes remains at £230,000, but what is going to happen to both Homes? I know that the Government is not directly responsible for running the Homes but many relatives and the public in general are wondering and are worried deeply and a statement of policy from the Government would help to allay their fears. If it is indeed going to be a positive statement of intent. The Workers' Hostels are still running under a deficit. I hear from the grapevine that when the Gibraltar Regiment move out of their present site the prison could well be resited there. I wonder whether consideration has been given to resiting either the Casemates Hostel and, if possible, also Devil's Tower Hostel. This would release both areas for development and would allow foreign workers better standards of living. I feel they deserve it more than those who lodge at Her Majesty's expense. I am glad to say that press reports are not accurate as the Minister pointed out. In Heads 102 and 104, in the Improvement and Development Fund, I welcome the amount put down to repair the roof at St Martin's Special School. I hope all defects of water penetration will be overcome. I am also pleased to see the money allocated for the new Occupational Therapy Centre. I hope that there will not be a revote for this item next year. As far as Head 16, Post Office Savings Bank and Philatelic Bureau is concerned, I note with dismay that philatelic sales from £306,000 net in 1988/89, show a reduction to £285,000 last year and the estimated figure for 1991 is only £266,000. I know the Minister concerned has been fully occupied with other matters but this area is one of considerable revenue, I would expect the figures to be on the increase rather than on the decrease. The Chief Minister has already suggested that there could well be changes in the Philatelic Bureau and I also take

the Minister's remarks into consideration. As I did mention previously, £10m has been earmarked for the Social Assistance Fund. In his speech last year the Honourable the Chief Minister said "so what we are saying is that what we hope to have in 1993 is a situation where the annual payments from the Social Assistance Fund will be comfortably met from the invested income of the £20m and whatever the Government puts in into the annual budget". However, as yet there is no indication in the Estimates as to the level of the Fund at present or any indication as to what the Fund will be in the future or where it is invested or how. The Leader of the Opposition may well be right and part of the Fund could well be invested in the Savings Bank. If we now look towards the Employment Survey Report and Pensions, the Government should now be paying pensions based on the formula which has now been abolished to couples over sixty five of approximately £90 weekly and not the present figure of £73 paid for maximum contributions to Gibraltar pensioners. This difference is appreciable. Even if we ignore the formula, if pensions we based on the cost of living formula that would take us up nearly to £90 per week. This bears some thought and I think that the Government should address itself to revising the low level of pensions. Mr Speaker, I believe I have covered both the general principles of the Bill and the Departments that I have responsibility to shadow. I have posed several questions and I would be grateful if the Chief Minister, in his right to reply, or other Ministers who have yet to speak or at Committee Stage, I could be given an answer to the questions I have posed. Thank you.

HON J L BALDACHINO:

Mr Speaker, in my contribution to this House I will be basing myself on the changes that have occurred in my Department and the future changes that we intend to carry out. I will also refer to the works that have been carried out by our Maintenance Section and those that are to start in this Financial Year as well as a brief account on Home-ownership. Before I go into that Mr Speaker, I would like to answer a point that Mr Anthony made in passing, and that is that there is only £4m for Painting. If he were to go back through the Estimates since 1984, the period that I have been here Mr Speaker, it will be seen that there has never been so large an amount as that in this year's Estimates for Painting. I will however go into that and what we intend to do and what jobs we intend to carry out and what painting of Estates and different small pre-war flats. Also, Mr Speaker, Members opposite have shown reluctance at the fact that there is no Finance Bill and I would like to remind Honourable Members opposite that since I have been here in 1984 the Finance Bill is not only to give out goodies but also a revenue raising measure and Honourable Members opposite must also remember that the goodies that they used to give were always in the last two years of their term of office. Of course Mr Speaker, to give out goodies we do not need a Finance Bill and I will prove to the Honourable Members

opposite that this is the case. Mr Speaker, when I took office in 1988, the Housing Department, and I would like to clarify that, was the Cinderella of all Government Departments in the antiquated procedures and system being used and only by introducing at that stage in 1988 a very limited memory computer, belonging to the DLSS and which was not being used, and I must say that even though I borrowed it at the time they are not getting it back, did we manage to fully computerise the whole Waiting List. We have now also computerised the Requisitions. My department Sir, during this Financial Year will be further computerised and with more advanced computers the intention is that we might even be able to collect rents on a computer basis. On the Maintenance Section, Sir, and if one refers to the Estimates in Head 101 Housing, the intention is that first of all we will completely renew the roof tiles up Humphreys. This Estate is a clear sign of the neglect that there has been in maintaining our housing stock through the years. We intend, and as a matter of fact, work is already in process in one of the blocks which had its plastering peeling of completely and in dangerous condition. We are trying to carry out remedial works as well. The intention is also to paint Vineyard and Rosia Houses which have been left unpainted for many many years. We also intend to start painting Varyl Begg Estate which also has been neglected for the past fifteen years ever since it was built. All in all, Sir, the maintenance work that will be carried out by my department has never been carried out by any previous Government. We have also already painted the roof of Schomberg which was suffering water penetration. And we have carried out work in Churchill House as well. Kent House has also been fully painted and see the way it looks now. We have also carried out remedial works at Knights Court and we intend to carry out remedial works at St John's Court. Therefore, Sir, apart from the normal routine maintenance work we have carried out an incentive programme on maintenance. We have refurbished Richardson's Passage and changed the corridors from what used to be wooden to a more permanent structure. We must not forget Danino's Ramp and I do not want to go too much into that because I have already spoken before about the shortcomings of the previous administration and the way they accepted this building from the private landlord without taking legal action as was their prerogative under the law that it should become habitable. In Danino's Ramp we have changed the complete roof structure to one of the blocks, we have rendered the building safe. We have also painted the building and changed the windows with aluminium ones. We are also doing that in McPhail's Passage and in Castle Street. Therefore Sir, my department, on the maintenance side has proved itself and I must thank the staff for their cooperation. Because without them it could not have been done. Apart from all this Sir, we have also taken on the construction of houses. Let me say, Mr Speaker, that already out of the nine possible flats that were being constructed in Glacis, six have already been completed and allocated. In St Jago's four have been completed and allocated. In Poca Roca ten have been completed

and allocated and of course the pre-fabs which gave us eightyone units. Those that are still to be completed are three at Road to the Lines which will then give us a total of one hundred and seven. One hundred and seven, Mr Speaker, which have helped a lot of families who were either living in overcrowded conditions or living in sub-standard conditions. The flats that then became available and which, I think, was in the region of twenty have been allocated to people on social grounds, making a total of around one hundred and twenty families having been housed. All in all, Mr Speaker, my department since I took office has allocated in the region of three hundred to three hundred and fifty flats. We also intend, Mr Speaker, to start construction in this financial year. The areas that we have already identified and are possible and are now at the planning stage. These are an additional storey to what used to be the Lake Chard buildings at Laguna. These buildings have four storeys at the moment and will give us the opportunity, not only of increasing our housing stock but also to carry out major refurbishing to the building and also give it a lick of paint which is badly required. That I am told will give us in the region of thirty more flats. We have also, Mr Speaker, reached agreement with the Varyl Begg Tenants' Association, to whom the previous administration had promised a social club, to provide them with temporary accommodation whilst we build a block where a new social club will be housed on the ground floor as had been promised by the previous administration. That will give us in the region of another twenty flats. So all in all, Mr Speaker, what we have is the start of building fifty new flats in this financial year even though, Mr Speaker, there might be more because we are now looking at different areas, and I do not want to identify them because at this stage they are only in a primary stage, so therefore, Sir, my department has provided more in two years in office than the AACR did in the last four years that they were in office. Mr Speaker, if one were to look at Head 104 in the Improvement and Development Fund they will see that under sub-head 12 my department will be investing £176,000 on new equipment and if Honourable Members opposite bear with me I will inform them of what we intend to spend the money on. The intention is, Mr Speaker, to buy Site Cranes, Compressors, Tippers and other relevant equipment required to enter into construction. It is important, Mr Speaker, to recognise that the labour force prior to 1988 was used purely on maintenance and is now carrying out construction work and producing much needed flats for people in the waiting list. Mr Speaker, at Varyl Begg, the roofs that were erected at the time, have given us many many problems and that is one of the areas that we are looking at and where we intend to carry out works. If it is not possible to remedy the fault with the existing roof we may have to erect one more storey and introduce a different type of roof which may be pitched. In Moorish Castle Estate we intend to carry out certain works which will include replacing of the soil pipes and guttering. We will be completely refurbishing and painting the Red Ensign Building at Engineer Lane and

we intend to provide a pitched roof from 1 to 8 Hospital Steps. In the town area we intend to refurbish windows and shutters and in some instances we might have to change them to aluminium windows. We have purchased a very expensive paint which is working very well. We have tried it at Schomberg and other areas. We need a site office and we also require to build the columns on slabs for the construction and the foundations. Apart from that Mr Speaker, we are looking at other areas even though they are small, especially in the town area where we are having the worst problems with roofs and our intention is to carry out as many roof repairs as possible by changing tiles and also converting flat roofs into pitched. My department, Mr Speaker, has now become one of the biggest employers of manpower in relation to the industrial workforce and it is clear that the change has given us the opportunity to carry out more work than previously was being carried out at almost the same cost. Because Honourable Members opposite will remember from when they were previously in Government that housing was a permanent feature every year seeking Supplementary Funds. Now this year Housing has not come for any Supplementary Funds. If I may turn now, Mr Speaker, to Homeownership. Construction work has already started at the Brympton site as well as at Westside I, where the buildings are now five storey high. I have been informed that letters of appointment for Westside II have gone out today. At Westside II, Mr Speaker, of people who have shown an interest in buying there are seventy who will be releasing Government accommodation. Nevertheless, Mr Speaker, what is important is that we have received six hundred applications and most of the people, or nearly all, are in the Housing Waiting List. Mr Speaker, the Government has also introduced a £10,000 allowance which one could say is a "goodie" because if one looks at the Estimates one cannot argue that we are receiving £10m more in income tax and if you consider that the £10,000 allowance will probable cost the Government around £12m then that in itself is a "goodie". I think that the Honourable the Chief Minister, in his first Budget Speech, said that the Government was prepared to give money back to the people in an area of the economy that the Government thought could be of benefit and one cannot argue that the Government is not giving something back. The Government is giving back money to people to give them an advantage and to give them an incentive to go for Homeownership. We are committed to Homeownership and this is not something that I am saying now just because I am in the Government. We always supported the AACR when they came out with the Vineyards Project but the only thing that we did not agree with them was when they announced the system of selling and to whom it could be sold. Because at that stage if the Government is giving land free then it is a contribution that the whole of Gibraltar is making and therefore if the whole of Gibraltar is making a contribution the benefits should be for the people generally and not to speculators. Because when speculators come in prices sore and some people then cannot afford to buy a flat. That is why, Mr Speaker, we have laid down certain conditions so that no speculation can take place in projects that the

Government in a certain way, maybe be subsidising, subsidising may not be the right word, but up to a certain point "subsidise" by means of lands or by means of providing the infrastructure, is that there is a Government contribution. I heard the Honourable Member opposite and the Shadow Minister for Housing many times saying in interviews that the £10,000 was an extension to the AACR policy. I must disagree with him totally because the £10,000, in money terms Mr Speaker, cannot be an extension. It is five times more but anyway if you want to promote Homeownership it must be with financial help. If we look at the people who will be entitled to claim the £10,000 it will be seen that it goes further, much further than what the £2,000 did. For example, the £10,000 can be claimed by people who will be constructing their own homes whilst the £2,000 did not cover that. It is also very flexible in the way that people can claim and it is also flexible in the sense, Mr Speaker, that spouses can either decide to claim 50% each or one can claim the total amount. It even goes much further than that, that is, that if people want to live together and we have certain cases where people have wanted to live together, then they can claim the allowance on the proportion of what their entitlement to the house or the flat is. So the £10,000 Mr Speaker, goes much further than what the £2,000 did and therefore it is not an extension to the AACR policy but something new in concept. It is an extension of money like I have already explained. It has to be an extension of money because financial help is the only way that we can help people who want to buy their own flats. There is a great interest, Mr Speaker and it is a pity that Homeownership was not introduced many many years back because the problem that we are having now, and I can quite safely say that the problem of the future in housing, will be solved. But the problem that we have now is of people who have been waiting for a Government flat for twenty years and now find that due to their age they cannot obtain a mortgage. That is the problem that we have and it is a problem that must be looked at and an area that must be solved because unless better facilities for Homeownership are introduced we will have no other option than to build a certain amount of flats for these types of persons. Nevertheless, Mr Speaker, the Government has a commitment to the people of Gibraltar and it is in our Manifesto that we wish to reserve the right on the five hundred houses until we can clearly assess the amount of flats that are required after the sales through Homeownership. In the end Mr Speaker, it will be cheaper or more economical to own one's flat than to rent because even though the burden is at the initial stages, it is like when one buys a car the burden is that in the first year you have difficulty in paying but as the years go by then the burden becomes less and less. But the advantages of buying one's own home is that if one has a big family today, in ten or twenty years time when he no longer requires a big flat then obviously, he can sell and buy a smaller one and make a profit. So up to a certain point it is an investment in that sense. It must be an investment although sometimes we make the mistake of trying to promote Homeownership by saying to people "buy your home because that is an investment". That is totally, in my opinion, incorrect. Because when a person sells his flat he has to have somewhere else to live and unless one has a lot

of money and can own twenty flats then that is a completely different thing to Homeownership. But what will happen once Homeownership gets off the ground in Gibraltar is that there will be more mobility in the future something which does not occur today. We have to be realistic to know that many people living in Government rented accommodation are just a couple and are still living in a five room, kitchen and bathroom flat. The whole concept of housing, Mr Speaker, is totally inadequate because we cannot move people about if they pay their rent and up to a certain point it would be immoral because people in Gibraltar tend to spend a lot of money in their flats and therefore it would be immoral to force them to move. My department is all the time trying to convince people to move but I must say with very little success. Sir, I am sure that by tackling the problem like we are doing on all sides because as I said when in Opposition that the problem must be tackled at all levels. We cannot isolate things. It must be a comprehensive programme and this is what I am trying to do. It must take into account private rented accommodation, it must take into account Government rented accommodation and we must also take into account Homeownership and make a comprehensive policy where everything is interlinked. There are a lot of people still living in slum conditions. One has to accept this, Mr Speaker. It is a very difficult task but nevertheless with the help I am getting from my staff, both clerical, supervisors and industrials I am sure that progress will be made and by trying one can only go and have as many flats as possible we will be able to win in the end. On refurbishment of Government housing we have £206,000 for remedial works and will entail works at MacMillan House because the balconies are in a dangerous state, we will also have to rewire the whole of the Alameda Estate. This has already started and we think that we will be able to complete the project this year. By painting and renovating our buildings, we will give a clear indication that this Government is committed to housing. That it is committed to provide better housing to our people and with that tone and once again thanking my staff who have always been willing to help me and without their invaluable help the progress that has been made in housing could not have taken place, I thank you very much, Mr Speaker.

HON LT-COL E M BRITTO:

Mr Speaker, I have listened with interest to the comments the Honourable Mr Baldachino, Minister for Housing has made and I would like to take him up on a couple of points he has made. The progress towards the target of five hundred houses which we would, on both sides of the House, like to see move at a much faster is not quite as fast or as dramatic as his figures add up to. He quoted a figure of one hundred odd so far and a proposed thirty further in Laguna next year and twenty in Varyl Begg. I am rounding up the figures slightly. I think the Minister will accept that from there you have to deduct the figure of eighty which are the

temporary housing which presumably he still undertakes to vacate after a period of approximately four years. I am glad to hear that there is intention of constructing an extra level or an extra storey at Laguna and perhaps I missed something the Minister said but can he confirm that there is no intention of doing the same sort of thing at Varyl Begg? I had the impression that he said that was going to be one of the ways of tackling the water penetration problem. I will give way to the Minister if he would like to answer that.

HON J L BALDACHINO:

I accept that Mr Speaker. Given the construction of the type of roof that we have at Varyl Begg if it is possible to carry out the remedial works without removing the existing pitched roof so be it but if we have to replace it with a different type of roof, as the Honourable Member is fully aware because there are many houses in Varyl Begg with problems especially in the bigger blocks, then it might be possible to carry it out in the manner of adding an additional storey to Varyl Begg. We have asked for a feasibility study from the Structural Engineer who designed Varyl Begg and I will have to look at it and make a decision when the time comes. That is what I have said, Mr Speaker.

HON LT-COL E M BRITTO:

I thank the Minister for that clarification. Carrying on to the news of a further block at Varyl Begg, this obviously raises the spectre, and the Minister resides there and I have resided there, and we both know how serious the parking problem is. We have heard earlier today that the Government is laying the liability at the door of developers to provide parking facilities in all new developments. Is the Government accepting this liability themselves when providing a new block at Varyl Begg? Providing the additional facilities to help the problem of the residents of Varyl Begg which is so great especially at night?

HON J L BALDACHINO:

Yes, and perhaps I should have explained to the Honourable Member that opposite in Westside II we have reached an agreement with the developers that as they have surplus parking in the development, and I must make this quite clear in case people are listening, that to go into a parking at Westside II there is no need to enter into the Estate. So the Estate will not be inundated by vehicles from Varyl Begg. They will be going into a normal parking like the car park in Casemates without any intrusion into the privacy of the people who are paying. The intention is that there are people in Varyl Begg who are willing to buy a parking and we also look at the parking facilities that exist at Varyl Begg, at the moment, and then I will make a decision to perhaps allocate one to each flat. There could also



be surplus parking at the reclamation where the Building Components Factory is. This is now full of lorries etc, that could be an overflow to the parking problem that we have at Varyl Begg. We are looking at the problem of parking and also the excess parking space at Westside II. With these areas I think we will have sufficient parking for the people residing at Varyl Begg. The problem at Varyl Begg is a problem that exists everywhere else. For example I live in Varyl Begg and I go home late and find it very difficult to find a parking so I park outside and then walk home. However everybody wants to park right where they live. That is the problem, not only at Varyl Begg but everywhere else in the other Estates. I am afraid that I have already spoken to the Tenants' Association because I prefer that people should belong to the Tenants' Association. It is easier for me to deal with the Tenants' Association and then they can raise problems with me not only at Varyl Begg, for example the new Tenants' Association at Humphreys and the new Tenants' Association at the Coach Park. I have already spoken to the Tenants' Association at Varyl Begg and I think that we will probably be able to provide them with more parking facilities.

HON LT-COL E M BRITTO:

Mr Speaker, once again I thank the Minister for that explanation. Sticking to Varyl Begg I have been made aware during the past few days of a problem that is arising and which possibly has not yet been brought to the notice of the Minister because I see no provision to remedy the matter in these Estimates. In fact I am not sure whether it is a Government problem or whether it is a problem of the developer. The new "road" that circumvents the outside of Varyl Begg whose entrance is through what was the Pilot Station and continues into the Reclamation is, as Ministers know I am certain, a very much on a temporary surface and I presume laid by the developer. Now, Mr Speaker, what is causing serious problems, and could even be causing public health problems, is the amount of extra dust or extra sand or whatever that is being shunned off by these lorries as they go backwards and forwards. The long-suffering people along that part of the Estate are by and large, I understand, fairly silently putting up with the inconvenience of having part of the Sahara Desert on their very doorstep but are now finding that life is becoming almost intolerable by the extra strain on their families and on their children. I went down to see the problem for myself and I not only saw, but was given to understand, that because the entrance is wide open, and I appreciate the problems of trying to close the entrance, it has become a favourite drag car racing track for want of a better word for motorcycles, cars, bicycles and anything else at hand. Now to make matters worse, the perimeter fence which exists along that edge of Varyl Begg is fouled in a number of places and I could see young children having gone through these holes and happily playing on the edge of this road. To me the whole thing looks

like a recipe for a serious accident sooner than later. I would put it to the Minister that there is case for (a) the studying of how the barrier can be made more permanent, (b) whether the public health aspect needs to be investigated and (c) of getting the developer to control access into the site.

HON J L BALDACHINO:

Mr Speaker, the Hon Member is quite right in saying that one has to be grateful to the people of Varyl Begg for the way they have put up with what is an abnormal situation. I have already spoken to the developers and to the Land Reclamation Company and they are going to try and minimise the problem. Although I am sure that we will not be able to find a permanent solution, we can at least try and minimise the problem by hosing down the area where vehicles pass at least twice a day if that is possible. I have already made representations to them, even though I have not received representations from the people at Varyl Begg, I understand that they have been trying to get in touch with me. I had a representation made by the Tenants' Association and I said that I would look into the problem. Mr Speaker I also live at Varyl Begg and I know the problem and they have told me that they would try and hose down the track where the big lorries pass. Mr Speaker, I have through negotiations managed to get out of the developers a swimming pool for the people of Varyl Begg. This is to compensate them for the loss of the waterfront and even if that was not an acquired right I think it is only fair that they should contribute something for what the people at Varyl Begg have really put up with. I am very grateful, Mr Speaker, because they have not really made a song and dance of it and if that had happened in other areas then we would have probably have had people with more complaints than normal and up to a certain point I understand the problem they are having especially with the sand but it is something that unfortunately in Gibraltar whatever you do as we are so small it always affects somebody else. At least I think as the Honourable Member rightly points out they should try and minimise that inconvenience and that is something that I have brought to the attention of the developers and the Land Reclamation Company and I hope that what they have promised me materialises.

HON LT-COL E M BRITTO:

Now, Mr Speaker, coming to the point made by the Honourable Minister Mr Baldachino on the definition of the word "extension" and "going further", I think that the Hon Minister and I shall have to disagree on this one. I think the word "extension" means what it says and as the Minister has put it "to go further". The AACR started the £2,000 tax allowance, the principle is the same, the principle is to encourage Homeownership and the principle is to get people to pay less tax. The Government have extended the figure to £10,000 which I accept as his definition. I



put it to him that I feel that what they have done is extend the conditions under which this tax allowance can be obtained and extend the range of people that can fall into the catchment area. Although I do not think that it is worth labouring the point Mr Speaker. A final point on Housing, Mr Speaker, I cannot in all conscience let the opportunity to go by without taking the Government to task on the question of "emergency housing". What I had written down here was "Fiasco at the Queensway", the ex NOP Courts. Mr Speaker, it took Government a very long time to produce what they themselves have described as "emergency housing". We have never had a satisfactory explanation in this House, for the delay that occurred and now once houses are finished, and one cannot but welcome the fact that eighty families have been accommodated whereas before they were living in worse conditions, but having said that, conditions within the houses are not as good as they could have been and the finishing is not as good as it could have been. I have seen instances of walls which move with the wind literally or should I say sections of walls which move with the wind and you can actually see through the gap in the wall and out to the ground. But of course worst of all is the problem of condensation. To my knowledge there is water penetration in a couple of flats but I do not think it is a serious complaint, but the question of condensation within the flats certainly is. I took the matter up with the Minister at Question Time sometime back and I was given to understand that he was in consultation with the makers of the "emergency housing". I was informed that representatives of the firm were coming out and that some sort of remedial work was going to be carried out. I understand that so far nothing has happened and I see no provision for this, unless it is going to be at the cost of the original suppliers, and unless this is looked into the problem of condensation will as the weather cools down and there is an appreciable difference in temperature between the ambient temperature outside and the temperature within the building. I will give way.

HON J L BALDACHINO:

Yes, Mr Speaker, that is correct. I think that we have now come up with a solution but one never knows if this is the solution until one tries it out. We are trying out what my experts have told me is the best solution for condensation or to remove condensation. The answer is to have an open end on both sides so that air flows through. The problem is that we also want to divide the top floor and we are looking at a possible way of doing this and at the same time cutting down on the condensation. The flats that are most affected are the top floor flats. There are numbers of people who have complained because I have received those complaints. It is also true, Mr Speaker, that there are people who are very happy to be there, the majority. Others have complained because they have a problem and I will try my best to find an acceptable solution and I hope that we will start the work soon. I accept the

constructive criticism that the Honourable Member has made but what I cannot agree with him is that it is a fiasco. Because it is not a fiasco. It cannot be a fiasco when you have accommodated eighty one families that were living in a worst type of condition than what they are living now. It is a question of opinion because I think that if they had been on this side of the House, the Emergency Housing would not have been provided and it would have been far longer for those eighty one families to have obtained better accommodation.

HON LT-COL E M BRITTO:

Mr Speaker, the definition of fiasco was in terms of both the time and the final product, not the alleviation of the housing problem, but we will leave the matter there. Mr Speaker, I find myself in a little bit of a quandary. I understand that we are going to adjourn at eight o'clock.

MR SPEAKER:

There is no reason why you cannot carry on tomorrow morning.

HON LT-COL E M BRITTO:

Well that is the point that I was going to make. There is no way I am going to be able to finish my contribution in five minutes. On the other hand I do not think I can make my contribution on sport in five minutes either and I understand that the Minister for Sport will not be here tomorrow.

HON MISS M I MONTEGRIFFO:

That is right, Mr Speaker, I have been invited by the Grammarians Hockey Team to accompany them to the European Cup Finals.

HON LT-COL E M BRITTO:

I am in your hands Mr Speaker. I can now move into sport and try to keep it as short as possible but I cannot guarantee it will be five minutes.

MR SPEAKER:

I believe there are a number of Members who have to go somewhere so staying later than eight is going to be very difficult.

HON CHIEF MINISTER:

Mr Speaker, I have an appointment that I have got to keep but the other Members of the House can stay if the House so wishes.

HON LT-COL E M BRITTO:

Let me reassure you, Mr Speaker, that I will not be all that much longer.

MR SPEAKER:

Very well we shall carry on and then those who have to go can do so.

HON LT-COL E M BRITTO:

Fine, Mr Speaker. On the question of sport, Mr Speaker, I must first of all take up the Honourable Miss Montegriffo on the question of the artificial surfaces at Victoria Stadium. I could not help writing down what she said towards the end of her explanation as to why after two years and so many months we still are no further than where we were before. The Hon Member said "We are well advanced in our negotiations and will soon be in a position to make public a date when the artificial pitch will be installed". I cannot help but smile, Mr Speaker, because I think I have heard that on several occasions in answer to Questions thrown in the two years in which she has been negotiating with the previous supplier.

HON MISS M I MONTEGRIFFO:

If the Hon Member will give way. As I explained to the Hon Member a couple of months ago, the Government had no option but to keep on with the Agreement that it had with the proposed suppliers and until we gave them the deadline we were not in a position to pursue alternative proposals and that happened only a couple of months ago, Mr Speaker.

HON LT-COL E M BRITTO:

I hope the Minister having been bitten once will be shy a second time. I will not give her a two year deadline, but seriously Mr Speaker, it is getting on for the unacceptable, that after two years nothing has happened. There has been complete failure and now we are starting again and there is no indication when the thing will be completed. Sport is suffering and sport is what I am concerned with. The Minister made no mention of the pool for GASA or the temporary provisions that have been made and again I must point out the situation that exists at the moment where the two pools are there side by side, the Calpe pool has been inaugurated and is ready for use and the temporary pool for GASA is not yet ready.

HON MISS M I MONTEGRIFFO:

Mr Speaker, if the Honourable Member will give way again. I did not make any mention about this Mr Speaker because the Honourable Mr Feetham will be mentioning the question of the temporary arrangements in his contribution.

HON LT-COL E M BRITTO:

Fine, I look forward to the Member's contribution and if at some stage gives way I will expand if necessary. Mr Speaker what I am objecting to is the principle that GASA should be second in the race for the two pools. They should have at least been opened together or if not preference should have been given to GASA. I will however give the Hon Minister a chance to explain and if necessary I hope he will give me a chance to speak if I need to. Mr Speaker, I must also mention the Sports Advisory Body and repeat the criticisms that I made last year. I understand that there is a certain degree of unrest or of unhappiness amongst the members of the Sport Advisory Body. I understand that once again this year and the Minister might not be aware of this, but she can take my word for it that there is, I understand that the Sport Advisory Body has met on a limited number of occasions, I do not know on how many and I put it to the Minister that the concern or the unhappiness that exists could lead to some resignations and it is due to the fact that members feel that they are being used, to a certain extent, as a rubber stamp for the question of Financial Grants to Sporting Associations and that on some occasions when some of them have wanted to raise other matters which do not have a direct financial implication they have not been allowed to do so. The point that I am making is that she herself has told me, when I have asked her for the terms of reference sometime back, that the Sport Advisory Body is there to advise Government on all matters, and I will quote the words as approximately as I can "on all matters to do with sport" and that therefore that is what it should be used for and not just to discuss the Financial Grants.

HON MISS M I MONTEGRIFFO:

Mr Speaker, I can assure the Honourable Member that we have met on many, many occasions and that members have had the opportunity, before the meetings, to include any matter related to sport in the Agenda. The can even raise any matter without putting it in the Agenda. In fact we have spoken about such matters and meetings usually go on for as long as three and four hours every time, Mr Speaker.

HON LT-COL E M BRITTO:

Mr Speaker, this is again a question of two different stories from two different sides of the fence. I put it to the Minister, and it is a thought that has just occurred to me that, unless she considers that the Minutes of this meetings are confidential that maybe it would assist me in my contributions on this subject in order to be more positive and constructive if she could let me have sight of the Minutes of meetings on a confidential basis. I leave the decision to the Minister.

HON MISS M I MONTEGRIFFO:

Mr Speaker, if the Honourable Member will give way. If the Hon Member gives me the information on those members that are unhappy I will be happy to take the matter up with them.

HON LT-COL E M BRITTO:

With respect, Mr Speaker, it is not up to me to speak on behalf of the members of the Advisory Body. Any member that has spoken to me in confidence about the fact that they are unhappy it is up to that individual member to inform the Minister. I hope she will accept my word that I am not inventing the facts and that I have been told of this. Finally, Mr Speaker, in order not to keep anybody here any longer than necessary an additional point, a repetition of a point that I made last year. I do feel that with the Sports Grants up to £40,000 there is a case to be made for insisting that a proportion of the money given be used for the furtherance of sport of the majority and not just the minority that travel out of Gibraltar. In general terms I think the Minister will agree that the greater part, if not the total of these grants, are used for travelling abroad by teams or by groups. I feel the majority of participants in any given sport stay behind in Gibraltar and that there is a need for using some of that money on coaching. There is a need to use some of that money to promote the sport at a junior level and there is a need for better facilities, but I will not go into that, but definitely coaching and for juniors is a must.

HON MISS M I MONTEGRIFFO:

Before the Honourable Member finishes, Mr Speaker, I can guarantee that the Sports Advisory Body looks at all specific commitments that are brought to its attention. If no one applies for that type of Grant it is then impossible for the Committee to grant the Sporting Association the money.

HON LT-COL E M BRITTO:

Mr Speaker, with respect, the Minister misses the point. It is not what the Sporting Associations ask for. What I am saying is that Government should give a leadership and say that one of the conditions is that part of that £40,000 should be set aside for the majority of people who stay behind in Gibraltar. It is not a question of waiting for people to ask. In round figures say £10,000 should be allocated for coaching schemes for the benefit of junior sportsmen, for the benefit of non-international .....

HON MISS M I MONTEGRIFFO:

But this is being done already Mr Speaker. This is what I am telling the Honourable Member. I remember a couple

of meetings ago in the House of Assembly that the Honourable Member specifically asked me what the money being used for, other than events out of Gibraltar and I confirmed to him that money was being allocated towards coaching, conferences and other things apart from international events Mr Speaker. I answered the question in the House.

HON LT-COL E M BRITTO:

Mr Speaker, maybe I missed that. The list of grants that the Honourable Minister gave me did not indicate the money being spent in Gibraltar. Island Games, the Grammarians with GHA, Eagles with GHA, Commonwealth Games, the Squash Association, Basketball, the Gibraltar AAA's, Volleyball, GAA, Badminton, Fishing, Table Tennis and Cricket.

HON MISS M I MONTEGRIFFO:

I said, Mr Speaker that it is because this year the Sporting Associations had only asked for grants to be given to them for going outside Gibraltar Mr Speaker, this is what I said originally.

HON LT-COL E M BRITTO:

Mr Speaker, I will not labour the point because we have gone round in a full circle. What I am saying is that a proportion of that money be it 25%, 20% or 30%.....

HON MISS M I MONTEGRIFFO:

But I cannot earmark it if they are not going to use it.

HON LT-COL E M BRITTO:

If it was not available for going out of Gibraltar. It would be used for coaching etc and if it was not used for that they would not get it. But I will not labour the point. Obviously the Minister does not agree with me. I think it should be a specific contribution.

HON MISS M I MONTEGRIFFO:

It is not a question of agreeing Mr Speaker, there has not been the demand this year.

HON LT-COL E M BRITTO:

Mr Speaker, with your permission if I may I would like to stop there.

MR SPEAKER:

The House will recess until tomorrow morning at 10 o'clock.

The House recessed at 8.05 pm.

The House resumed at 10.05 am.

MR SPEAKER:

I will ask the Hon and Gallant Colonel Britto to continue with his contribution.

HON LT-COL E M BRITTO:

Mr Speaker, the Chief Minister yesterday in his explanation on the various ways of measuring the growth of the economy spoke about measuring it by looking at the production of a country, by measuring expenditure, by measuring income. He then explained that you could freeze, as it were, this economic growth taking a "snapshot" I think was the word he used, as they are for example reflected in these Estimates today. He also went on to say that you can, or that it is done, that this snapshot is touched up or updated periodically. For example when the figure is first estimated in stage 1, when the outturn is predicted in stage 2 and when the final figure is confirmed being stage 3. Well all this is fine as economic theory. However what he did not say, Mr Speaker, was that there is a fourth way of measuring the economy. A way that is used much more frequently to update the photograph or the snapshot, a way that is practised monthly, weekly or even daily by the man in the street when he checks his state of economy, what he is mostly interested in, his own personal economy, when he checks his bank balance, when he puts his hands in his pockets to check his cash, when he sees what amount of money he has been able to save or invest and when he sees what extra money he has available to spend on luxuries for himself and for his family. That is the economy, Mr Speaker, that is not behaving as bouyantly as the Chief Minister would have us believe. The case is that the man in the street is today certainly no better of and in some cases, he is worse of, because of higher income tax deductions, than he was when this Government came into power two years ago. Listening to speakers from the other side, Mr Speaker, and especially to the Chief Minister, one comes to the conclusion, if that conclusion had not already been reached before, that here is a Government that has two preoccupations or two obsessions. An obsession with statistics and an obsession with secrecy. This obsession with secrecy, Mr Speaker, is reflected in these Estimates and about which I will give examples as I go along and it stems directly from the attitude of the Chief Minister and is faithfully reflected, if I may say, by his speeches and by the speech of other members on that side of the House throughout our meetings. The Chief Minister has made no bones about his declared policy of giving the Opposition as little information as possible. A Chief Minister who it is whispered in the corridors of power, and I choose the word whisper, advisedly, in the corridors of power of No.6 Convent Place regularly instructs Civil Servants to carry out this policy of keeping

information as disguised, or as little, as possible. Now, Mr Speaker, this, as I say, is copied by other Ministers. It is very noticeable in their interventions and most noticeable when answering Questions. For example, Mr Speaker, we have the example of the Honourable Mr Feetham earlier on in this same session of the House humming and laughing and denying and coming back and eventually admitting that there was an intention, in answer to a question from me, to move part of his department to new premises at Town Range when it would have been quite simple to have admitted this. It was rather an innocuous question. I admitted this from the word go. Instead the Hon Minister spends ten minutes of the Houses's time trying to pretend that there was no intention to move. We also had it from the Honourable the Minister for Housing, Mr Baldachino. In the last meeting or the previous meeting, I think it was, when again in answer to a perfectly simple question from me, on the level of rents in Government housing, he hid behind the provisions of Standing Orders to say that this information was publicly available because it had been answered in a question to him some years ago. That Mr Speaker, reflects an attitude of secrecy to a question of purely statistical information made available to him when I was not a Member of the House. We had it in the attitude of the Honourable Miss Montegriffo. For the past two years we have been trying to find out what is happening to the artificial surfaces at Victoria Stadium and for two years she has refused to give any information at all. Mr Speaker, I could go on but at the risk of boring the House I will pass on to other things. We had an early signal of this attitude of secrecy at the inception or the setting up of the Joint Venture Companies. Joint Venture Companies which continue to function without Members on this side of the House having any information as to their financial situation. Joint Venture Companies that we understand, as we have not had it confirmed, that are using public funds and yet there is no reflection of this in these Estimates or anywhere else as to how these funds are being used and furthermore Mr Speaker, there is therefore no public accountability for the use of these public funds in these Joint Venture Companies. If we now look, Mr Speaker, at the Improvement and Development Fund and specifically Receipts. Page 83, Mr Speaker, we see under Subhead 2 that the Government having estimated some £3¼m of Receipts from the sale of Government properties for this past year is now predicting an outturn of just over £16m from £3¼m. It is predicting, or it is estimating, for the year 1990/91 an increase to £25m in Sales of Government properties and all this, Mr Speaker, without a word. Throughout the year the public of Gibraltar is not aware of what has been sold. Who it has been sold to? How it has been sold? And much less what it has been sold for? Because, of course, it would be an offence to tell anybody what it has been sold for. It would be damaging to the commercial position of the Government. Total and utter nonsense Mr Speaker. There may be some justification for not disclosing figures beforehand and for not disclosing actual figures afterwards. But to refuse to disclose

information of what has been sold and to whom is not acceptable Mr Speaker. To refuse to give the information in global terms so that one is not able to identify actual figures is again difficult to swallow. It is another product, Mr Speaker, of this attitude of secrecy that this Government has and furthermore in the absence of a Tender Procedure or anything similar to a Tender Procedure, there is no satisfaction or no guarantee that such sales are being achieved for the best possible prices or in the best possible conditions for the people of Gibraltar. We only have the word of the Minister, on the few occasions when he is prepared to get up and talk about this. And that in general terms is not enough, Mr Speaker, not that I am doubting the Minister's word as such, but that in general terms is not enough for the public for something that is public property. There has to be public accountability and the Government should be prepared to stand up to the responsibility and to say what it is doing. Another example Mr Speaker, and I am sorry if I seem to be concentrating on the Minister for Trade and Industry, but if I now take you to Head 22 of the Estimates of Expenditure and specifically the department that the Honourable Mr Feetham heads we see under Subhead 80 a provision of £30,000 for the City Plan, a revote I may say of £30,000 which was the money voted last year. Mr Speaker, not so many days ago we had the privilege of seeing the Honourable Mr Feetham on the front page of the Gibraltar Chronicle waving a map of Gibraltar painted in pretty colours of the five zones that the Minister is dividing Gibraltar into. Does not the Minister think that the people of Gibraltar deserve to be consulted? Does not the Minister think that the continuing delay of the City Plan which was supposed to have been ready so many months ago, the last Government if I remember rightly left one shortly before leaving office, that was supposed and promised by the Government to be ready if I remember for February last year and we voted £30,000 in these Estimates last year. Well nothing has happened during the year and we now have the same item appearing again. Mr Speaker, the facts speak for themselves. If we now go to the Consolidated Fund Charges on page 704 and specifically Subhead 26 and 27 on Commercial Borrowing we see another example of what I am talking about. It has been the practice, Mr Speaker, to itemise Commercial Borrowing as can be seen from the previous two pages of Consolidated Fund Charges on page 702 and 703, it has been the practice, as I say, to itemise borrowing under each individual item of borrowing and to keep the individual details during the life of the loan or the servicing of the loan. Well we see an interesting development this year, Mr Speaker, of the loan repayments and interest charges of commercial borrowing done, presumably, locally, all being dumped together under one Head. And why we ask, Mr Speaker, is there some ulterior motive? Does the Government intend to borrow in the future and it does not intend us or the people of Gibraltar to know who it is borrowing from? What is the need to linkup all these loans together under one Head and therefore hide

the origins of the loan? One more example of this secrecy complex appearing once again. If we now go to Head 26 of the Expenditure in this Estimates and specifically to the item of Supplementary Funding which was referred to by the Chief Minister yesterday and to which rather exceptionally we were given an explanation of their intention. I must admit, Mr Speaker, that I had also questioned the motives for this Supplementary Funding which in itself is self contradictory because it should be unnecessary to provide Supplementary Funding at this stage because if you know that there is a need for Supplementary Funding then the causes should be itemised and included and it should then no longer become Supplementary Funding. Now if you do not know what it is required, then there should be no need for it. I am however prepared to accept the Chief Minister's explanations that it is intended to set a limit on the extent of the Supplementary Funding and that it is a signal to Government departments. But I ask the Chief Minister to give us is an undertaking that he will give details, as the year progresses, of how this Supplementary Funding is being used. In order that it is seen that they are not hiding behind the veil of secrecy and the measure was to spend that money in whatever way the Government saw fit without giving any information to this House. And I ask him to give us the information on how it is being spent and further I would ask him when he exercises his right to reply to clarify whether it is his intention, at this stage, not to have any further Supplementary Funding during the year? Mr Speaker, the Minister for Labour and Social Security yesterday spoke at some length on the merits of the Youth Employment and Training Scheme. I will not go into details on both aspects of it, but what I will highlight is the fact that I find it a little bit disturbing that there is no indication to the public throughout these Estimates on what is happening to the money being contributed by every employer in Gibraltar, not just by the Government, but by every employer in Gibraltar on a weekly basis through the Social Insurance Fund, to fund the training scheme. It is public money. It is not a donation. It has been contributed under the force of legislation and it is obligatory that there should be a certain degree of public accountability for it. Again this attitude of secrecy because nowhere is there any indication, or has there been any indication in the past, from the Government on what amounts of money have been collected, how this money is being used, how it is being controlled and where it is being kept. We now come Mr Speaker, to what we on this side of the House see as the best, or should I say the worst example, of Government secrecy and this is the creation of the Gibraltar Development Corporation and the so far lack of detail of what it is intended to do beyond one or two items that have already been mentioned like the Training Scheme and the Airport. How it is going to be financed and what public money, if any, is going to be used. Once again, Mr Speaker, there is no indication in these Estimates of any intention at least no outward and unequivocal indication in these

Estimates of what, if any, public funds will be used to finance the Corporation. As we all know, Mr Speaker, the GSLP Government has designed the perfect secret vehicle in this Corporation. It is able to do what it likes virtually because of the very wide powers given to it. It will be able to do what it likes, how it likes. It will be able to pay for it in whatever manner it chooses without anybody outside the Government knowing what is going on because the Gibraltar Development Corporation will have no obligation, not just to publish Accounts or to come to this House and give details of its activities, but it will have no obligation to publish any Reports that will be available for the public describing what it is doing and it will not have any obligation to tell anybody outside Government circles of its activities. That, Mr Speaker, is using public funds in an unacceptable manner as far as this side of the House is concerned. That is why the Leader of the Opposition announced yesterday that it is the intention of the AACR to hold an inquiry into these activities once the next AACR Government comes into power. Mr Speaker, as a final item on this attitude of secrecy I would like to reflect on how this is also adversely affecting the sovereignty of this House of Assembly and is striking at the very root of Gibraltarian democracy. Yes Mr Speaker, if you look at the definition of the word "sovereignty" it does not just mean royal, it means other things as well. It means independence, it means the power, it means the ruling capability. There are many examples, Mr Speaker, of legislation being passed which effectively is eroding the powers of this House. Legislation which is aimed at allowing the Government to rule by Regulation. This is not good for Gibraltar, Mr Speaker, and the GSLP will pay the penalty for this element of electoral dictatorship that it is introducing into our society. Mr Speaker for the first time in our history, people are afraid to speak out, they are afraid to be seen publicly opposing the Government and in the long-term it is the Government who will pay the penalty for creating this fear. Mr Speaker, I spoke of two obsessions, one the obsession with secrecy which I have at some length identified and which can be seen throughout these Estimates. I also spoke of an obsession with statistics and I will deal with this now. We all know of the Chief Minister's or rather the Government's electoral predictions of 50% growth of the economy and it seems to me that the record of the Government so far shows that this is their priority. This has to be achieved at all costs. Because if nothing else there are individual reputations at stake and they cannot be seen to fail. Now how is the Government setting out to achieve this? Well, I spoke again about increases in Income Tax, Mr Speaker, because although this Government has said that it has not increased Income Tax, it is an inescapable fact that the Gibraltarian today is paying between 20% and 25% more in Income Tax than he was in March 1988. I am not going to go into mathematical proofs, at this stage, because the Government knows that what I am saying is true and the Chief Minister knows that it is true and if they

do not agree that the Gibraltarian today is paying over 20% more tax than he was at the date of the Election, then I challenge the Government to deny this. Of course, the reason is well known, Mr Speaker, it is because Personal Allowances have not been increased in line with inflation and as long as these Personal Allowances are not increased the Gibraltarian will continue progressively to pay more tax each year. This is what the Government is doing without disclosing these facts to the people of Gibraltar. We also see this preoccupation with statistics being reflected in the Government's attitude to the Civil Service. A measure of restructure, Mr Speaker, was what the GSLP manifesto said prior to the general election. I should say that wholesale slaughter is the description that would probably be more appropriate at this stage. I am advised that "slaughter" is not a good word, Mr Speaker, and I accept that. I shall therefore call it wholesale dismantling rather than wholesale slaughter which perhaps has other connotations that I do not like. We have seen whole Departments or parts of Departments dismantled with the intention not just of increasing efficiency but, obviously, of lowering the cost of the Civil Service and there is no doubt, Mr Speaker, that in the haste with which this is being done, with the priority that appears to have been given to encouraging more Senior Civil Servants, who are obviously earning more to retire - and I use the word "encouraging" in inverted commas - There is a loss of experience, a loss of expertise being suffered within the Civil Service that if it is not causing irreparable damage will certainly be extremely hard to replace. As a third example, Mr Speaker, of this attitude, I touch on something that I will call "the Winston dependency". Let me tell the House a short story, Mr Speaker. I was walking up the street a few days ago and there was a group of young people just ahead of me, round about 20 years old, they could have been the sons or the daughters of many of us in this House and for all I know maybe some of them were, and their conversation was extremely interesting. One of them was describing a car that he had just acquired, an expensive model by most people's standards, and he was extolling the virtues of this car and some of the others were saying how expensive it was and, surely he did not have a job and the young man confirmed that he did not and the others were saying: "Well, how are you paying for it, how do you intend paying for it? And the answer that stuck in my mind Mr Speaker, the answer was very simple, the young man said "Winston paga", "Winston pays". Mr Speaker, the Government has taken some steps to improve the situation but obviously it has not done enough because the situation that we are talking about still exists, and continues to exist, and apparently it is getting worse. The Government is not giving all the leadership it should and is, in fact, looking the other way apparently judging that the extra income coming into the public coffers is more important than the social consequences it is causing, Mr Speaker, is economic growth so important that we need to be encouraging and creating and educating tomorrow's



generation in this frame of mind and with all the social consequences that this is likely to bring? Finally, Mr Speaker, I will come to Appendix F to these Estimates, the Gibraltar Government Lottery Account. I will quote from Hansard what I said last year when referring to the Lottery. I said then Mr Speaker on page 105 of Hansard "It is almost immoral to look at page 9.6 of the Estimates, to see that the Government is budgetting for a £4m in prizes in unsold tickets. Putting it another way, Mr Speaker, the Government expects to win a £4m itself in the Lottery in the coming twelve months. But the point that is more interesting and a reflection of the thinking behind it, is that if this were not to happen and, of course, it is a gamble and nobody can say whether the £4m will, in fact, happen or not happen and it is purely a matter of luck, but what is indicative of the state of the Lottery Account is that if it were not to happen and if the Government were only to win the couple of thousand pounds that it won in the year 1987/88, in fact, despite doubling the price of tickets, Government would make less profit in the coming year than it did on that previous occasion. So I think it is pretty indicative that some shaking up needs to be done". Well, Mr Speaker, the Government did not win a £4m, it won over £4m in unsold tickets, £530,000 to be exact which together with the value of prizes unclaimed by the public, another £130,000, gives a total of £660,000 as a windfall to the Government. But what gives me no pleasure to say, Mr Speaker, is that the profit made by the Lottery was only £536,000 and was less than the amount won in prizes by the Government. So my prediction last year that the Government would have less profit proved to be wrong but the Government would have made a loss if it had not won that prize money. To make the situation worse, Mr Speaker, the Government appears to be content with the situation because the Minister responsible, the Honourable Juan Carlos Perez, told me in answer to a question in the earlier part of the session, in this House, that there were no immediate plans to make any changes and I see from the Estimates for 1990/91 that the Government intends or predicts a profit of £599,100 for the coming year. But it also predicts, Mr Speaker, that it will make £550,000 from the winning of tickets. So the Government, in budgetting for the Lottery, is relying almost entirely on winning prizes, because if it does not win prizes it is going to make a loss. It is obvious, Mr Speaker, that since the Lottery was restructured things are not well and it is obvious that if a Lottery has to depend on people not winning prizes then not only is it immoral but it is commercially unwise. I therefore say again, Mr Speaker, that there needs to be some rethinking and there needs to be some restructuring of the Lottery. In conclusion, Mr Speaker, I can think of no better way to end my contribution than by repeating the words that I used at this time last year at the Budget Session and I apologise that by repeating these words some may be slightly outdated. I will quote from the same page of the Hansard, Mr Speaker, page 105, when I said "Finally to conclude my contribution

Mr Speaker, on the debate on the Estimates, I want to stress what appears to me one notable exception in all these Estimates..... An omission from a Government that was elected on a ticket of "caring for the community" and that, Mr Speaker, is the lack of any provision for accommodation for the Drug Rehabilitation United Group and the consequent recent disbanding of the Group through lack of support, financial or tangible in bricks and mortar from the Government. I would like to take this opportunity to pay tribute to a very dedicated band of volunteers led by Mr Hubert Corby and a number of others who for a long time have been doing excellent work behind the scenes at no cost to the Government, at no cost to Gibraltar, purely at the cost of time and physical endeavours to themselves at all hours of day or night, work that now sadly has come to an end and I will end by calling on Government to meet the responsibility that it accepted during the recent exchange of questions in this House and to meet the responsibility for providing a service to replace DRUG and to deal with these very sad cases of people who have abused drugs but who are trying to recover from this terrible problem". That is the end of the quote, Mr Speaker, and I call on the Government once again this year to meet the responsibility which they had promised to do but which they still have not done anything in providing an alternative service to that which DRUG provided so that this very difficult problem can be dealt with. Thank you Mr Speaker.

HON J L MOSS:

Mr Speaker, after that rather intoxicating finish to the Honourable Colonel Britto's speech, I rise with certain trepidation this year and I say so because on the one hand someone from a certain Party has suggested that perhaps we do not need a full-time Minister for Education and on the other hand I thought I was sitting opposite a Party which I have always considered to be right of centre and fairly calm placid people who have now shown themselves to be wolves in sheeps clothing perhaps, by the revolutionary ferment of their arguments in this particular debate. Of course, it does take a while to get rid of old habits and certainly the way that the Honourable the Leader of the Opposition and the Honourable Mr Anthony, in particular, were dispensing millions yesterday was something to see. Mr Anthony was saying "What is £4m here?" and the Leader of the Opposition was talking about 50% growth as though it was something that you could find underneath a stone. Mr Speaker, I would use a word "obfuscation", which was used yesterday, and say, "how about "confustication?". That, Mr Speaker, is a word which, I think, was invented by J R R Tolkien. It means to confound. It means to confuse the issue. I think, with all due respect, that that is what the Opposition so far have been trying to do with this debate. It is certainly not a question of elucidating any information for the benefit of the public. Quite the contrary, in fact, there is a very definite obsession with secrecy in this House and I put it to the Honourable Members

opposite that the place where this exists is actually on their benches. They are obsessed with the idea that this Government is working in secrecy because of the fact that they do not do their homework correctly. When the Honourable Col Britto speaks about hiding behind Standing Orders and about simple questions I would say to them "if you put a simple question you get a simple answer". If you want to find out certain information then that has to be phrased correctly and you must not assume that the Government knows what the Opposition is thinking, even though invariably we do. Another thing I would say is this business of the man in the street. The man in the street has become very popular since 1988 and I do not know where he was hiding before that. At home perhaps. The man in the street for the first time ever in Gibraltar is actually going to have the opportunity to buy his own home which is something which is forgotten by the Opposition and he has also been assisted in many other ways and which have been announced both in this House and in public. If the Opposition are not aware of this it is because they do not want to know and for no other reason. One final point on Col Britto's contribution is that if he honestly believes that the tender system ever worked then he is living in cloud cuckooland. To begin with my contribution, Mr Speaker, what I have to say about education I have said before and I will say it again. Mr Speaker, one of the most lamentable things about education in Gibraltar was the state in which we found our schools upon taking office and I am afraid to say that this is not a job which can be corrected in one year or in two years or even in three. I would say that we have made substantial inroads into the problem in this past Financial Year. I can tell Members for example that three of our schools received a coat of paint on the outside. In the case of Bishop Fitzgerald School, I think, it was the first coat of paint that it has possibly received since it was built. We have also been able to react very quickly to problems at special schools such as St Martin's and Notre Dam and this has assisted the well being to great effect. The process is continuing this year and we have a substantial minor works programme for Sacred Heart and St Joseph's First Schools. This will include replacement of windows and their frames, a costly and expensive job which nevertheless needs to be done. We will also be, of course, taking some remedial action on the roofs of St Martin's School, on the Nursery Unit at St Bernard's School as well as in other areas where it may be necessary. We did devote a substantial input of money last year for Minor Works. I think the effect has began to show but what it has also began to show up is the very short-sighted policy of the previous administration which claimed to support the building of new schools but which was actually doing very little to the schools that already existed and which were, in fact, falling into a state of utter decrepitude. This is something which we certainly will not tolerate and will not allow for the future. You will notice on the other hand, Mr Speaker, what I am sure is subject dear to Members of the Opposition, that we have included a certain amount of money in the Improvement and Development Fund for studies

for new projects. This will involve consideration of any place where we feel, according to the new demographic distribution in Gibraltar, that we actually require, extensions to current buildings or where we think that the accommodation has to be improved to any extent. Obviously the South District is something which we have been looking at for some time and part of the money that has been voted for these studies or that will be voted for these studies, Mr Speaker, will be used for this purpose. We are not, of course, discarding the possibility of it being used for the improvement of schools elsewhere. I would also like to point out that the total school population of Gibraltar is not growing at any dramatic rate, so that what we are talking about is a redistribution of people and not that there is a sudden burning need for five new schools in Gibraltar, Mr Speaker. One of the important developments this year, of course, has been the acceptance by the Government of the Report produced for us by the National Curriculum Working Party. I believe this has been widely welcomed not just in Government circles but also outside because obviously it means that we continue our link with education in Britain. It also allows us, particularly through personal and social development to include much more of a local content than has ever been possible before in education. Clearly we are committed to ensuring that the National Curriculum is implemented smoothly and at the moment every indication we have is that this is going to be the case. I would however point out for the benefit of the Members of this House that capitation to schools has been substantially increased once again this year. It has now been increased substantially, in fact, for the past two years and the Government will also be making special funds available for computer hardware. This is something where we have been lacking, very very much behind, not UK standards, but certainly the standards that we would want to have in Gibraltar. The good news on this side is that the total amount of computer hardware that we expect to purchase in this year will represent 50% of what has been built up to now. I think that is something which will be of great benefit both to our teachers and obviously to our school children and it is something which we shall be doing in this Financial Year. I cannot let an opportunity pass, of course, to comment on how successful the refurbishment of Bayside Comprehensive is proving to be. Mr Speaker this was, of course, one of the sore points when we came into office and we promised the staff, the Parents' Association that we would have a school which was as good as new and up to now what I have seen of the works quite frankly, this is going to be the case. There is certainly no question of our skimping on expenses here and I would point out that the project is now worth over £1.8m. That Mr Speaker, is enough money to build a couple of smaller schools. I add these words for those who might be interested. I would like to make some reference to the College of Further Education, Mr Speaker, because this is an area where we have been consistently pushing for

changes to occur in what we feel is the right direction as far as the economy is concerned. When we came into Government we found that the College concentrated far too much on technology and that there was clearly very little evidence that this was a growth area in the economy. Whereas, for example, in the area of Business Studies where one can identify a huge increase in the number of jobs available in related subjects there was very little being done. I am glad to say that we have managed to begin to turn this around and that I feel this is the right way to move. It is certainly supported by most of the members of staff with whom I have had the opportunity to speak and it is certainly supported by local industry which is, of course, what is important. The difference between the College of Further Education and one of our Comprehensive Schools, Mr Speaker, is that the College of Further Education must be geared to the market because it has to train people for jobs. The College cannot afford to be spending time on academic subjects which can best be covered either in our schools or through further education at university, college, polytechnic in UK. We are looking at other ways of course to bring extra work into the College of Further Education and one of the things which we have been doing this year has been to create links between the training schemes. This has meant that a number of short courses have already been offered in various disciplines using the college facilities and I hope during the course of this year we will be able to extend the situation so that we are actually offering more of a theoretical back-up to the practical training which goes on in the scheme. On the subject of scholarships this, of course, was something which we did very early on in our term in office but there has been improvements to this last year. The floodgates I am happy to say still have not opened, Mr Speaker, but we have had a substantial increase in new awards. This was in the order of 30% in our first year and 25% following that, which means that there has been approximately a 50% increase in the number of students studying in the UK from when we came into office in 1988 to 1990. We do expect another small increase this year and funds have been provided for this in the Estimates. Whilst we are moving steadily towards the European average we still think that there is further to go and because of this we have made some improvements which have benefitted parents of students and students and the two which, I think, are particularly important this year are, on the one hand, the fact that we were able to give students assistance with the Poll Tax and when I say assistance with the Poll Tax what I really mean is paying for the Poll Tax. In some cases, Mr Speaker, even more than that and possibly, I would say, not a particularly right wing measure for our critics on the other side but I am sure they will find something to criticise. The other measure was, of course, to change the way that we calculate the maintenance grant so as to be able to assist one parent families. This, Mr Speaker, was also welcomed and has been of considerable assistance

to people who might have been in danger of suffering hardship previously. Of course, Mr Speaker, we do not do this just to improve peoples financial position, we do it because by improving the scholarship package we will be able to encourage more students to go to the United Kingdom and to get the skills which we feel are necessary in our economy to make us a success. In the context of scholarships I would like to have a quick word on teacher-training. The word when we came in was that the diagnostic year which teacher trainees served in Gibraltar before going to UK to study was very useful and that it was a must. Since then I have had representations from the Gibraltar Students Association and I have discussed the matter with professionals in my department and with the Gibraltar Teachers Association and we have felt that in the light of changing circumstances in Gibraltar, particularly the fact that perhaps the teaching profession is not as attractive in comparison to other up and coming professions because of the growth of the Finance Centre, it was no longer viable to continue with this. At least it was not viable to impose it on future teachers and so what we have decided to do is to not make it compulsory as from this year and instead for those students who still feel it might be useful to have experience of teaching before they go off to study to enable them to go through a kind of diagnostic year via a training scheme which would still have links with the Department of Education. However as I said, this will be optional and I do not know how many takers there will be because my conversations with students lead me to believe that what they actually want to do is to go to UK as soon as possible and get it over and done with and get the experience behind them. We have been able to computerise a number of functions within the Department this year and this will also be something which will be increasing in the coming year so as to improve the efficiency of the Department. We will also be able to benefit from an improved advisory service this year and I am sure that that is something which teachers, particularly, will look forward to. So much for education Mr Speaker. I would now like to make some comments on the Youth Service which also comes under my jurisdiction. I am pleased to be able to report that the Youth Centre is now very close to completion, in fact it is a question of days rather than weeks or months. We have ordered some special equipment from the United Kingdom and some has not arrived yet but particularly due to the fact that summer is nearly upon us and we do not feel the Centre will be so attractive at this time because of competing attractions such as the beaches and will therefore be delaying the formal opening of the Centre until September. Facilities will be available, of course, and I can honestly say, and this is the opinion of others who have been involved with the Youth Service in Gibraltar for the last twenty seven years, that there has never been anything in Gibraltar like it and it will really, as I have said before, be the place for young people to go to once it has opened. We also look forward to improving it further with their advise and with their assistance. Another place which has undergone extensive refurbishment this year is the Adventure Playground. It

has now been completely resurfaced and we have added new playing equipment so that children can play there safely accompanied by their mothers. We are also looking at improving this year the Playground that was created some years ago at the Moorish Castle Estate but which was then abandoned to the elements. We are setting up, as I informed this House I believe at the last Question and Answer Session, a Youth Information Service which will be part of the Youth Centre and will have, as I mentioned at the time, included in its brief to initially collect information on the extent of the drug problem in Gibraltar, particularly amongst young people. I think this is absolutely essential before any talk of rehabilitation or anything like that. It will also of course, be providing information in other areas. Again it will be a new service, something which has not existed here in Gibraltar before. I would point out as well as further evidence of how we are helping the young people in Gibraltar to the fact that Youth Grants have now effectively doubled, in fact more than doubled, since we came into office and that we have initiated a policy of exchanges which is certainly more attractive from the point of view of the young people who are going on them as well as much better in terms of getting Gibraltar recognised in the world. What used to happen before was that mostly a similar group of people would go to London or to Glasgow every two years and with all due respect to the House, I would suggest that most Gibraltarians now know what London looks like. So we are sending them further afield. This year they shall have the opportunity to go to Denmark which for those of you who might not know is a small country in Scandinavia which I believe has some links with Gibraltar. Next year we are looking at the possibility of sending a Youth Exchange to Eastern Europe which I think will be easier now that the Berlin Wall has come down. We also, Mr Speaker, computerising the records at the Youth Office and this is of particular interest because with the Youth Information Service there is going to be a lot of material there and we will be able to have it readily available to anybody who might be making enquiries. We therefore feel computerisation is obviously the answer here and there will be more outreach work involved, of course, in the Youth Service as we go out of Montagu Bastion to reach the young people outside and to try and find out particularly what their problems are. I would like to add as a final point on Youth that perhaps the Opposition might like to study the latest figures on Youth Unemployment to see just how successful our policy on training has been so far and show the Opposition that with a little thought training does not necessarily equal apprenticeships. There are many forms of training and all they have to do is go round Gibraltar and they will see many ways in which the Government is contributing towards this training. On Culture, next year we will see the creation of another new Festival, Mr Speaker. It will not be the July Festival. At the moment just to explain the situation for the benefit of the Honourable Dr Valarino, we have two Festivals, one is the Gibraltar May Festival and the other is The Gibraltar International Festival of Music and the Performing Arts which happens

in June. So we have a May Festival and a June Festival. Obviously in a place the size of Gibraltar it makes a nonsense to divide resources between two differing and competing groups. So being the good politicians that we are on this side of the House, Mr Speaker, we are trying to bring together all these interests, I think they call squaring the circle in mathematics, and creating a Festival which will do Gibraltar proud but which will at the same time encourage the participation of all sectors of the community and create a genuine Festival atmosphere. Now whether this will take place over one month, two months or twelve months I am not at liberty to say until I have had further discussions with the organising committees. It is very important for cultural activities to have the correct venues and we are not blessed with that many sizeable venues in Gibraltar but we do have two which in one way or another are controlled by Government, the Ince's Hall and John Mackintosh Hall. Ince's Hall has already been improved slightly over the past two years with new seating and some new lighting but we are looking to making a major breakthrough in this particular year with professional advice, certainly on lighting systems which we have very recently been very kindly offered by members, in fact, of the Transitions Dance Group which visited Gibraltar last week as part of the May Festival activities, so we will be looking to improve that to try and get it up to what I would term at least a semi-professional standard to be able to host professional activities as and when it is possible to do so without having to have crises management and upgrade facilities at the time when people arrive. This I may add is also something which we will be doing with John Mackintosh Hall Theatre where we will also be improving the lighting and the sound amongst other things. Hon Members might like to note that the improved library facilities should also be officially launched in the near future and that these should include apart from the very very largely expanded library, it has practically doubled the collection and doubled the floor space, as well as continuing with the Record Library. We will also be introducing for the first time a Video Library which will of course not be competing with high street video shops. This Video Library will be concentrating on Cultural and Educational Videos which are not readily available. To finish the cultural side, Mr Speaker, I did say that Youth Grants have been doubled over two years, well this has also been the case with Cultural Grants. Mr Speaker perhaps we did make the mistake of keeping it secret because we did not have a commitment in the Manifesto to do this but that is just to prove that we can dish out the goodies throughout the year even though there is no Finance Bill. Mr Speaker, in conclusion, I think we are able to come back to the House now and report that there has been progress in the areas of Education, Culture and Youth and I believe I have given an indication of how we intend to proceed over the next twelve months. I can only hope that I will be back here in twelve months time to report further improvements. Thank you, Mr Speaker.

HON J E PILCHER:

Mr Speaker, in making my contribution on the so-called Budget debate, I would like to break my contribution in two. One is obviously to report on the departments for which I am in one way or another responsible for, because although I am Minister responsible for some departments I am also the chairman of other entities such as joint venture companies. So, Mr Speaker, in doing so I will report on the progress made during the last year and then in the second part will obviously be tackling points raised by different Members of the Opposition and try to explain, at least from my point of view, what I have seen in the concerted effort of the AACR Opposition in this discussion. First of all, Mr Speaker, let me say that as was done last year, although as Minister for GSL and Tourism, there should be an explanation on GSL as was done last year, Mr Speaker, it is my intention to leave that until June when we will have the major debate on the GSL Accounts for 1989 and obviously at that stage we will hopefully, and I say hopefully, because I expect that the accounts will be ready by about June. So, Mr Speaker, I expect that by July or early August I will be in a position not only to bring to this House the 1989 Accounts but also be in a position to relate what has happened to the third stage of our restructure as well as having a major debate on GSL past, present and future, as I advised the House at Question Time at the last session. Matters relative to GSL will therefore be left until then. As far as Tourism is concerned, Mr Speaker, let me first of all explain the fact that Head 23 which used to be the Tourism Head of Expenditure is no longer there. The reason for this is that all matters appertaining to Tourism under Head 23 have now been taken over by the Gibraltar Tourism Agency and therefore do not form part of the funds that are voted in this House of Assembly. However, Hon Members opposite may recall that during October 1988 there was an amalgamation of the Upper Rock section, the Gardens section and the Tourist Office section into one department. Obviously as the Agency took more and more of the strain on cleanliness in the Upper Rock, the beaches etc, as I explained last year, what was left was a very small department basically what we have called the Public Places and Planted Areas. This Unit which amounted to about £700,000 was too small to stand as a single entity within the Government budget and we have therefore included it under Head 22 Trade and Industry. Hon Members will see that under this Head-Other Charges there is Item 15 Public Places and Planted Areas-£728,100. That, Mr Speaker, is what is left over from the old Head 23 - Tourism. At Committee Stage, Mr Speaker, I will provide Hon Members opposite with any information that they may require. I will give a breakdown of the £728,000 for Hon Members benefit now. It is a very simple breakdown, Mr Speaker, basically it is composed of Maintenance and Running of Motor Vehicles - £3,800; Electricity and Water £54,000; Telephone Service £1,400; Maintenance of Gardens £50,900; Wages £613,900 and finally the Protective Clothing £4,100. This was all included, under Head 23 last year and what we have done is just move

Head 23 for the reasons that I have explained to Minister for Trade and Industry - Other Charges Item 15. That Mr Speaker does not mean that there is any change in the way that we are running that specific department. It is only for the sake of convenience that it has been decided that it was not worth having a Head that employed thirty or forty people with an expenditure of about £700,000. Mr Speaker, as far as Tourism in general is concerned I explained last year that during 1988/89 we had basically been re-adjusting the old Tourist Office into the new Gibraltar Tourism Agency. That was done last year and when we came to the House during the Budget Session we already were seeing the changes that were taking place and I said to the House, at that time, that the major moves towards the different areas would start immediately. In fact the year, Mr Speaker, has seen many moves in the areas that I have mentioned some of which I will go over but obviously since nobody has mentioned Tourism on the other side, as yet, I find it difficult to relate to any questions that might be asked. Obviously with your indulgence, Mr Speaker, although I know that you mentioned at the start that you wanted us to discuss matters of principle only, if there are any questions posed by the remaining speakers I can either interject if they allow me to or perhaps tackle them at Committee Stage. Basically, as I mentioned last year, there were two elements which the Tourism Agency was looking at and paying particular emphasis over the financial year which has just ended. One was obviously marketing. The new marketing drive, the new image, which I explained last year, and the second aspect was the major improvements we wanted to make to the internal market. If I can concentrate very briefly on the marketing, Mr Speaker, as is already well known the Agency launched its new marketing strategy, its new image, its new logo, and its new identity as the Gibraltar National Tourist Board in the UK market in October last year at the World Travel Market, and then subsequently at the Spanish market in Madrid as well as at ITB which is the major tourist market which covers basically Central Europe. We are also doing a lot of other work and I have visited the Scandinavian countries as well as also doing a lot of work through our Gibraltar Information Bureau in Scandinavia to market Gibraltar from a touristic point of view. There has been, Mr Speaker, a concentrated drive in the UK market both on advertising and related in particular to the areas which are supported at this stage by link-ups with our air communications ie the Manchester and London areas. In this area, Mr Speaker we have linked-up, and I will have a bit more to say on that later, with the Gibraltar Airport Services Limited. We are looking at it from tourist and the airlines angle so, Mr Speaker, we continue to concentrate in trying to convince tour operators and trying to convince airlines to come to Gibraltar. Mr Speaker, the European market, for reasons which I will explain in a moment although I have already explained it publicly, is an area which we are concentrating on Central Europe as well, also as I have already mentioned, the Scandinavian market from the gateway potential of Gibraltar, Mr Speaker, which I think is something



which is already understood and already being used by some entities and obviously the fact that it is a new market. This concerns the two or three centre holiday syndrome which is the way that Gibraltar is looked as a base. We are, as I say, continuing to market this, continuing to try and strive to convince both tour operators and airlines to come to Gibraltar and we have done this throughout this year and we are creating specific drives next year in order to do this. On the internal market, Mr Speaker which is the area which I think we have concentrated the most without obviously detracting from what we are doing externally. There has been a major drive by the Agency in conjunction with Government departments in the what I termed one of our top priorities last year, the improvement of the product. We have during the 1989/90 Financial Year, made major inroads into improving the product, St Michael's Cave which within the next couple of weeks will be finished. This has involved major improvements to St Michael's Cave like the reversal of the entry exit which gives it a much more impressive view for tourists. We have added or will shortly be adding Information Centres within the Cave. We have finalised the son-et-lumiere which will be starting again next week. We have made major improvements to the lighting of St Michael's Cave and you will find, Mr Speaker, if anybody in Gibraltar cares to go and see that over the last two to three months the improvements have been dramatic. There has also been the introduction of the Apes Den as a Tourist Site and I will not repeat myself since this has been said before. There has also been the introduction of the Information Centres. The new design, will be something, which I think, Gibraltarians will be proud of. The employment of Dr John Fa will cater for the management not only of the site but the management and protection of the apes. We have also improved, Mr Speaker, in conjunction with other Government departments, as I was saying before, the refurbishment of all the toilets in Gibraltar. Although this might appear to be a minor matter it is not because I can assure Members opposite that this was an area which was sadly lacking particularly from the tourist point of view as our facilities in this area were seriously lacking. The Market Place toilet is at the moment closed for refurbishment and we are catering for disabled facilities within these toilets. Information Mr Speaker, is something that has again been sadly lacking. Within the first year of office we have retrenched the Information Services in Gibraltar. We did not feel that the one existing Information Office just below us was enough to cater for the new flow of tourists and what we have done, Mr Speaker, is shortly to open Tourist Information Offices at all the major points of entry into Gibraltar, ie the Airport, the Coach Park, and one at Market Place to cater for traffic movement. The pedestrian Information Office will be housed in the Museum. This together with the information being given and improved leaflets, brochures etc at all the sites will mean that we will have moved tourism from an information point of view into the twentieth century like the rest of our competitors worldwide. Signposts, as I think the Honourable

Mr Anthony mentioned yesterday, Hon Members will see that under the Improvement and Development Fund - £20,000 was voted by the Government and again it is the intention of the Agency to in conjunction with the Government provide badly needed signposting for tourists. This signposting is not to do with traffic, or signposting to do with amenities, it is signposting specifically to do with tourists. They will have their own colour and will be done in a way that will be pictorial and for tourists. Again something which we were sadly lacking, something which we have been criticised or at least we have been advised of and something which we are now doing, Mr Speaker. Another major inroad, Mr Speaker, into the so-called day excursion in Gibraltar ie the Rock Tour. This is again something that we have worked over the last year and have produced a new guide and a new Rock Tour system which again I have made public and I will just mention the fact that we are gazetting what is the official Rock Tour in Gibraltar. We are also now licensing Guides and which means that there will not be the possibility of any tourist coming into Gibraltar and taking a Rock Tour of Gibraltar without that being done by a qualified guide, which again, let me add, is something which is absolutely normal everywhere in the world except in Gibraltar. So we have taken that step and although within the first year it is a transitional license we hope that within the next year or so we will have all fully licensed guides. Cleanliness, Mr Speaker, is the other element, which although not directly affecting the Agency, because the Agency does not have this within its contract with Government, the fact that it has to do with the cleanliness it obviously affects the Agency because obviously cleanliness, litter etc in Gibraltar is something which is taken seriously since obviously tourists will go away from Gibraltar with the mentality that Gibraltar is not a clean place and I will just leave at that. Because of this cleanliness although not directly coming under tourism it has a major effect on tourism and I took it upon myself, in conjunction with the other Ministers, and with the help of the Attorney General's Chambers created a Litter Control Ordinance which I will not go into now because it forms part of what will be discussed hopefully this afternoon. That, Mr Speaker, is a major piece of legislation which we hope will concentrate in the areas of cleanliness, in the areas of littering which I think Gibraltar requires to make it a cleaner place. As I say I will explain the detail of it hopefully this afternoon. That together with changes in the law that we have made or changes in Regulations that we have made in the Recreational Rules, within the Public Health Ordinance in order to stop the movement of dogs in some of the areas particularly the areas which are tourist areas and the areas used by mothers and children, I think is part of the major drive that the Government of Gibraltar and the Tourism Agency is giving to the problem of cleanliness and litter. It is not a simple problem and I got relatively upset yesterday with the Honourable Mr Anthony because, I think, he was dishing away general remarks about litter, as if litter and cleanliness was a thing which the Government were not doing



anything about or a thing that affected the Government only. Mr Speaker litter, cleanliness is something that affects the whole of Gibraltar. If every single citizen played his part then I can assure you, Mr Speaker, that Gibraltar overnight would be much cleaner. As I say I got relatively upset yesterday because it seemed that from what Mr Anthony was saying that the onus of responsibility lay on the Government. The onus of responsibility does not lie with the Government. The onus of responsibility lies with the citizens of Gibraltar, Mr Speaker. All we can do unfortunately is legislate but it is not the way that I would have liked to have played this matter because it should be a matter of civic pride and not be necessary to legislate because what it does is to create enforcement bodies, fines, etc. It is basically hitting people over the heads with the hammer and it is something which I would have liked to have believed that was possible to do under the "Make Gibraltar Bright" campaign or under some kind of form where the people of Gibraltar felt that it was something possible without having to fine people. But, of course, there is the exception and I am not for a moment saying that all Gibraltarians are that way inclined and when I see Mr Anthony walking his dog at night I know that somewhere hidden in his person he must be carrying a poop-a-scoop but of course I do not know whether the other hundreds of people that walk their dogs do so. I can however tell Honourable Members opposite that dog fouling is a problem that we have in Gibraltar. So, Mr Speaker I think the onus of responsibility lies with the public generally in Gibraltar and I would say particularly to our listening audience that it is something which affects everybody in Gibraltar and it is up to everybody to do the utmost to keep Gibraltar clean. My colleague the Hon Juan Carlos Perez informed this House of all these systems that we have for collection of rubbish, all the systems that have been put in play. The Tourism Agency itself has employed people to do the cleaning but I can assure you, Mr Speaker, that people throw away rubbish quicker than we can clear it and, as I say, it is a pity that we have had to introduce, as I said, this afternoon the Litter Control Ordinance. I however think it is the only way forward for the minority and I stress that. The minority who do not care about anything and, particularly Mr Speaker, let me add at this stage the vandalism that there is in our society. Again by a minority, but I think something which the majority of us have to help with. On two occasions, three occasions, Mr Speaker, refurbished facilities at the beaches have been vandalised. Refurbished toilets have been vandalised and refurbished park facilities and although it is only a small area in Line Wall Road, opposite the old Telephone Department, a little park there, this was refurbished only to find that two days later all the four benches had been vandalised and broken to smitherings. That kind of action, Mr Speaker, does not help the Agency in providing better facilities for tourists. But let us not forget that if we make better facilities for tourists we are, in fact making a better ambience and a better atmosphere for the local resident population. I therefore stress that it is a minority but I must stress

again that it is up to the majority to help us to deal with that minority Mr Speaker. As far as the beaches are concerned, Mr Speaker, I am glad to report that although we have had major upsets this year as a result of the bad weather our beaches will be ready for the summer season which officially starts on Friday. I ask again for the public to bear with us if it takes a few more days or a few more weeks in specific areas like for example the area of Both Worlds where there are still some things to do and, I think, Camp Bay and Little Bay which we are now finalising. But I assure the people of Gibraltar that we have been successful irrespective of what Mr Anthony said two or three weeks ago that we would never make it. Well, Mr Speaker, we have made it and I assure the public that very shortly they will see the beaches as they have never been before, Mr Speaker, in the history of Gibraltar. Again let me take the opportunity to thank, not only my staff at the Agency but the many people that have worked to make this possible. Members of the Public Works Department, industrial and non-industrial, members of the new Ministry of Trade and Industry Department, as well as members of the Housing Department. It has been a concerted effort by all the Government departments and the Agency to produce the final result that we will see hopefully within the next week or so. It is something which to a point I am proud of because it is seen as the ability of all the departments to work together, industrials, non-industrials, ministerial, everybody in order to do something which everybody knew was something good for Gibraltar to have the beaches ready for the public during the summertime. As I say I hope that the public understands that the first couple of weeks will be a monitoring exercise, because we have made certain changes in the way we run things and that rather than exasperating themselves with the changes they let it run and see whether the new systems works and if not then they have every right to ring the Agency directly and advise them of what alternative methods can be looked at. Mr Speaker, it is very common for Gibraltarians to criticise systems without perhaps letting the system prove itself and see how it works. Gibraltarians like particularly to criticise in a negative way. When I say criticise in a negative way I mean to criticise amongst each other rather than to ring the department in question and see whether something can be done. I think, Mr Speaker, we have seen this in the deliberations of this House when at times Members of the Opposition come to this House complaining about criticisms that they have heard and Ministers and their departments do not know anything about the matter. Mr Speaker, if the members of the public feel that something is wrong with the beaches and since the beaches are the responsibility of the Agency this year then they are at liberty to ring the Agency and advise the Agency of what is wrong and we will try, if possible, to deal with the problem. Let me now tell the House what we are doing on international marketing and the internal market. That does in no way mean, Mr Speaker, that tourism this year will not suffer difficulties in Gibraltar. The difficulties are, I think,

threefold, Mr Speaker. The first is because of the difficulties in the UK market which is something that is not only affecting Gibraltar. It is affecting every area that involves UK tourism like Malta, Cyprus etc. Our neighbours across the way are also affected by the UK market and figures are down by about 30%. This unfortunately hits us both ways, Mr Speaker. It hits us directly because our main source of overnight tourists, as they call them, is the UK and it hits us indirectly as well because the catchment area for day excursion comes from the Costa del Sol. So, Mr Speaker, it is something that has to be taken into account and the only way to counteract that, Mr Speaker, is to try and open up new markets. This is what we are trying to do at the moment in Central Europe and in Scandinavia and elsewhere. It has no easy solution. It is a very long road because tour operators, airlines etc do not change the way that they operate overnight and one has to convince them of the potential of a new market. This is what we are trying to do at the moment. There is also another factor which I think was mentioned by the Chief Minister. Not that it relates specifically to tourism, but as it relates to worldwide affairs and that is that as there are other areas opening up to tourism today and there is therefore more pressure on the existing areas plus the fact, Mr Speaker, and this was made absolutely clearcut when I went to the Small Countries Conference in Barbados to most of the small countries the fact that most countries everywhere in the world are looking in one form or another at tourism. So what that does, Mr Speaker, is it creates more difficulties for small countries like ourselves. But, as I say, the only possible way forward is in trying to counteract that by looking for alternative markets. Because we are a small market if we are able to look at alternative markets and if we are able to cater for alternative markets we might be able to minimise the problem. But at this stage, Mr Speaker, I do not have the necessary statistical information to back up what decrease there has been other than to say that the decrease was not felt that harshly during the winter.

At least this is my own impression, and obviously statistics will back me up after the summer, I think, the summer trade in the Costa del Sol, the summer trade from the UK market is suffering more because you can now go further afield at a much cheaper rate than you can to come to this part of the world. The other area, Mr Speaker, which it is my responsibility in the form of Chairman of the Gibraltar Airport Services Limited as well as in my capacity as the Minister responsible for Civil Aviation, is the moves that we are making on Civil Aviation in general and the Air Terminal in particular. We have, Mr Speaker, over the last year formalised our position which was very very unclear from a Government position as regards Civil Aviation. Civil Aviation is still an "undefined domestic matter" but we now have a very good rapport with the Deputy Governor who has responsibility for Civil Aviation and we have been working very closely and nothing virtually happens in Civil Aviation, be it with the MOD or the RAF, without there being that consultation process with the Gibraltar

Government which is something that was sadly lacking when we came in to power in 1988. Again, as I have already mentioned, as part of its Joint Venture commitment British Airport Services Limited is now marketing the Gibraltar Airport as well and has linked up with the Agency in order to try and have a two pronged attack. However, basically, Mr Speaker, the major improvement that we have seen in Civil Aviation is the major improvement to the Air Terminal. These improvements which, I think, will be finalised over the next two or three weeks moves the Gibraltar Air Terminal into modern times, it now becomes an International Air Terminal, Mr Speaker, and is in fact creating a first for the region in many areas. If I can just go very quickly through the changes that we have made Mr Speaker. We have created an office block which was absolutely essential because what we found is that the clerical backup activities and the other entities that are required were actually taking up space within the Air Terminal. So the office block has made it possible for them to work within the office block area. Concourse activities have been improved, as I say, facilities for the disabled, the bureau de change facilities and new checking facilities. The International Departure Lounge, Mr Speaker, now offers the normal activities of any international lounge which is that people can actually filter into the Departure Lounge at any time without having to wait in the main concourse and then you were herded into the small room before you were herded into Air Club. We now have or we will have shortly a full operational Departure Lounge which means that people can check in and then walk into the Departure Hall. The Departure Hall is offering major facilities for duty free, an area which is about six times the size what it used to be, catering facilities for those people who want to go into the Departure Hall. We have also an Executive Lounge which is now standard in many Airports but a first for the area. This is the area which I talk about, the zone around Gibraltar, we are the first Airport to offer Executive Lounge facilities. We also have a new first which is Duty Free on arrival, Mr Speaker. We are creating Duty Free Shops on arrival to cater for the transit trade. People who come to Gibraltar and go to Spain. Obviously this Duty Free on arrival cannot be used by residents of Gibraltar because they would have to buy Duty Free goods and then pay as they came into Gibraltar. It is meant as a transit facility for people exiting Gibraltar. We have created a new Customs block, Mr Speaker, which in fact makes the Arrivals Hall bigger as well and there is now a new area which is again a normal area in any Airport which caters for Car Hire, Tour Operators and I think a very important aspect of it is that we have put a "meeters and greeters" area, again something which was not catered for in Gibraltar. So what you found was that Gibraltarians that used to go to the Airport and used to try and mill around an area which was no bigger than a couple of square feet trying to see their families as they were coming in. There is now specifically a "meeters and greeters" area created like there is in any other airport in the world for people who are waiting to actually see people coming through and they will be in an area which has a roof and

walls and they will not be sort of standing out in the rain as used to happen. Again Information Officers, which I think I mentioned before, and all the peripheral activities are now being looked at, Mr Speaker. This, as I have mentioned in many occasions, is only the first phase which should see us through for the next three or four years. The movement of passengers that the new Air Terminal can take is about one million passengers or just nearly one million passengers that should see whether the growth in Gibraltar materialises very quickly or slowly. After terminating the first Phase I in conjunction with MTI we are looking at the Phases II and III which obviously require major infrastructural changes for a new and longer runway as well as new Air Terminal facilities. Phase I really creates a holding position for us to be able to look at this under a much slower pace. Obviously the only other factor which involves Civil Aviation and although does not have to be tackled must at least be mentioned, is our position vis-a-vis the Anglo-Spanish Agreement on the Airport. This has not changed one iota and the position is as clear today, and I think it was mentioned by my Honourable colleague Juan Carlos Perez, as when we were in Opposition. We were saying this before the elections, we were saying this during the elections, we were saying this after the elections and we continue to say so, Mr Speaker, and we will not change the stand of the GSLP against the existing Anglo-Spanish Agreement over the airport. I think, Mr Speaker, that wraps up the different areas and what I am responsible for. I would now like to move briefly, Mr Speaker, because a lot has already been said, into the general principles of the different discussions that there have been raised particularly by the Opposition in reacting to what has been said on this side. I think I will like to start by trying to analyse, Mr Speaker, the contribution of the Honourable the Leader of the Opposition. I think Mr Speaker, if one were able to take the rhetoric out of his contribution and I have to stress that it is confusing sometimes to hear the Leader of the Opposition because he seems from year to year to forget what it was that he told us the year before. I do not have certainly the historical background that the Leader of the Opposition has but I have certainly been here since 1984 and have been following politics actively since 1980/81. I think it was my Honourable colleague Joe Moss who said that he did not understand how the Honourable the Leader of the Opposition could stand up and say to this side of the House that we were not Socialists and that we had given up all our principles when two years ago, Mr Speaker, the Honourable the Leader of the Opposition was saying that we, on the Opposition side, were wolves in lambs clothing. Now what is it, Mr Speaker, that we have not done? No painted the whole of Gibraltar red when we came in on the March 1988? Is that why he is so upset? The Hon the Leader of the Opposition has made a 360 degree turn, Mr Speaker, by first saying to the people of Gibraltar, during the elections, that they should not trust us because we were all a bunch of looney left wingers and that we were going to turn Gibraltar on its head if we came into Government. Then in the House of Assembly two years later he is blaming us

for not doing what he said we would do ie chaos for Gibraltar. Now, Mr Speaker, which is it? Is it that he is unhappy because we have not done that? We are Socialists, Mr Speaker, much more Socialist than the Members on his side will ever be. I am not pointing to different Members because I honestly believe that there is not a concerted drive on that side of the House. I do not think any one Member opposite with very few exceptions, can call themselves Socialist. Some might be to the right, some to the left, some in the centre and half of them do not have any political ideology, Mr Speaker. They are a group of people brought together by one man, Sir Joshua Hassan, and they have converted themselves into a Party. Socialism to us means a specific thing, Mr Speaker. Whether the Honourable Member wants to believe us or not that is his prerogative but we have said that Socialism for us is not in the creation of wealth. It is not how you create the wealth rather than how it is distributed. There are lessons to be learned from so-called capitalism in the creation of wealth but we act as Socialists, Mr Speaker, when we distribute that wealth. If they had bothered to listen, which is something they do not half the time, then they would know how we have spent the money that we have created. What we have created has been for the good of the people of Gibraltar, Mr Speaker. So if you take out of the equation the aspect of rhetoric in the contribution of the Honourable the Leader of the Opposition, you are left basically with three things Mr Speaker.

HON A J CANEPA:

Will the Hon Member give way. In order that I take out the aspect of rhetoric on his part. Mr Speaker, this group of people was not brought together to create a Party. The Party was there. It has been there since 1942 and we have all joined in at some stage or other. With regard to the Honourable Mr Ken Anthony and the Honourable Lt Col Britto let me say that I brought them into the Party and not Sir Joshua Hassan.

HON J E PILCHER:

I stand corrected, Mr Speaker. The overall basis however does not change. But I stand corrected in respect of the Honourable Mr Anthony and the Honourable Lt-Col Britto. As I was saying, Mr Speaker, if you take out of the equation what I consider to be rhetoric and obviously the Honourable Mr Canepa does not, then we are left with three different points. Point number one is what I would call or term playing to the Gallery. Obviously the Hon Member is playing to the listening audience. He is finding out what it is that people are upset about and then using that as the basis for his attack on the Government. Mr Speaker, little did I know, and I have only discovered it during the course of the debate, that the source of that kind of information of the AACR is the Honourable Col Britto. Because he goes around eavesdropping into peoples' conversations. At least this is what we have discovered today Mr Speaker. I can imagine Col Britto standing outside Convent Place trying

to hear the conversations of people as they go out. The other two factors in the Hon Leader of the Opposition's speech is that we have not lowered Income Tax. That we have not done anything for the poor working class which are suffering from such high tax. I think Mr Speaker, that Members on that side of the House think that the working class came into being after March 1988. Nevertheless, Mr Speaker, let me say to the Honourable Member opposite, as I have said before in this House on many occasions, that the GSLP in Opposition, during the elections, and after the elections never said that they were going to lower Income Tax. I remember in our election campaign criticising the AACR, not for not lowering the Income Tax, Mr Speaker, but for not giving value for money. That is what we were criticising. We said quite clearly during the election campaign that we would not lower Income Tax until such time as the overall infrastructure needed for the community was catered for. It is very simple, Mr Speaker. If one asks anybody if he wants more money so that he can protect and give his family a good living, of course, they will say "yes". The Government Mr Speaker, has however to act, as a father to the community and has to take away money in order to produce a better infrastructure and better systems for the whole of Gibraltar. We said quite clearly during the election campaign and after the election campaign that we would not lower Income Tax until such time as we felt that in that distribution of wealth that we were talking about everything that a Socialist system should produce had been produced Mr Speaker. I complain every month when I look at my pay packet and see the amount of Income Tax that I am paying that it is normal, Mr Speaker, like it is normal for a child to want to spend money on other matters and not what his father considers that the money should be spent on, Mr Speaker. Although I do not perhaps disagree with some of the points

that have been made, the Government has to look at the whole of society and decide when it is the right time to alter things. I think that not so long ago, three or four months, the Honourable the Leader of the Opposition said that they had introduced the PAYE system, because it was necessary to take money from people in order to distribute it and this, Mr Speaker, is what the Government is doing with the money it generates from Income Tax. It is not being spent on anything but the creation of a better Gibraltar for all Gibraltarians Mr Speaker. The other matter which the Honourable the Leader of the Opposition mentioned and it seems to be, Mr Speaker, the general emphasise of his speech, is that even if we paid Income Tax and I think it is being highlighted by the press today and I think the radio today, even if we were paying the Income Tax, the people of Gibraltar are not getting anything in return because they are not seeing anything visible. This was the sort of guidelines that he laid down for his colleagues to follow. Well, Mr Speaker, his colleagues did not follow this line because the Honourable Mari Montegriffo stood up and said all that she has done for the Health Service, all that she has done for the Medical Centre, all that she has done for the Environmental Health, all that she has done for Sport

and the Honourable Mr Featherstone got up and I think the only thing that he mentioned about Medical Services was to congratulate the Minister for having spent more money, in I think, sending patients to UK. Very little criticism, Mr Speaker. The Honourable Juan Carlos Perez got up and mentioned everything that we have done with regard to infrastructure and the Honourable Ken Anthony who, I think, shadows my Hon Colleague, although I am a bit confused at times, got up and, I think mentioned the fact that he did not know what the Tourist Agency did, that we were charging more money for electricity and when he was shut up by the Chief Minister he carried on as if nothing had happened. The Honourable Pepe Baldachino spoke on Housing and very little was said by the Honourable Col Britto other than the problems with the sand at Varyl Begg and the problems with the emergency housing. Very little was said, why, Mr Speaker? Because it is clear that there are major improvements in our infrastructure both visible and invisible. Obviously, Mr Speaker, one cannot see sewage, you cannot see changes in water pipes, you cannot see changes in electricity, but everybody in Gibraltar now knows that there have been major improvements over the last two years and I think that there are two questions which certainly have to be asked and the ordinary man in the street has to ask himself. What is wrong in Gibraltar? I think that if the answer to that question is the Government knows what is wrong in Gibraltar and are actively working towards changing that, then obviously we are doing something about it. Fine, I agree that there are some problems that cannot be tackled overnight but in general most of the problems are being tackled. The question that the Honourable Members opposite ask themselves daily is that they are afraid that in four years we will do everything set down in our Election Manifesto, Mr Speaker, and we will prove to the people of Gibraltar of the sixteen years of waste that the AACR meant to the people of Gibraltar. I do not like to go back, Mr Speaker, but we must relate to what the AACR did and in very few instances has any of us mentioned the chaos that we were left with and what we have done in two years but let us now forget the past. But it is surprising to hear the Honourable Leader of the Opposition every time that somebody gets up and says something that we have done, he says that this was in the pipeline when the AACR were in Government. Whether it is Nynex, the reclamation or whatever. Everything was in the pipeline. So we, historically, are not blaming the AACR but have said look we have done this over the last two years and people know what mess we were left with and we are now moving forward and it is now that the AACR are saying everytime we do something that this was in the pipeline. Mr Speaker, the truth of the matter is that I have sat here throughout the debate and at one stage I expected that somewhere along the line somebody would say repetition because every single member with the exception perhaps of the Honourable Col Britto was basically repeating that we have not lowered income tax, we are not taking care of infrastructure, etc and say "that is wrong" without the Minister getting up and saying "we know it is wrong and we are doing this about it and hopefully within

the constraints of finance etc, we will have a solution". That, Mr Speaker, has been the position of the AACR with reference to the debate.....

HON A J CANEPA:

Mr Speaker, we have very little to say about GSL but the Hon Member might remember that I had something to say about the amounts of money which GSL owes the Government?

HON J E PILCHER:

Yes Mr Speaker, and as I have said to the Honourable Member this will be thoroughly discussed as it has been done in previous years. In fact earlier than it was ever done under the AACR because I remember the last time when we discussed the GSL Accounts, I think it was 1988/1987 Accounts, we discussed them in October. We hope to bring the Accounts for 1989 in July or early August and I assure, Mr Speaker, that like we did last year, we will have a full debate on the issue. Not only what has happened with the third stage of restructuring but also with regard to what the future has in store Mr Speaker. I think that on that note, Mr Speaker, I will finish because I have not heard any one single element other than red herrings on secrecy and matters of regulations, as if Gibraltar were a place where people did not find out what was happening, other than that I have not heard any single thing, Mr Speaker, that does not convince me, when I put my hand in my heart, that we are doing a good job from this side of the House, Mr Speaker. Thank you.

THE HON G MASCARENHAS:

Mr Speaker, the trouble with the Government, as far as enunciated by the Honourable Mr Pilcher, is that they think that they are always right and nobody else can be right except the Government. I recall in the days when we were on that side of the House, that Ministers when on this side did exactly what we have done during the course of yesterday and today. They would completely ignore all the things that we had done and only talked about the things that we had not done. So honestly we have learned from them. Because we did not know what it was to be in Opposition before. So they taught us a lesson and I think they taught us very well, Mr Speaker. However, what they forget is that these are the third Estimates that they have brought to this House. They are probably the worst Estimates in what they do not reveal. Not in what they conceal but in what they do not reveal. I think that if the GSLP continues in Government for a much longer perhaps we might not have any Estimates at all in the future. Gibraltar might be run by the Gibraltar Development Corporation or by a Joint Venture Company. Mr Speaker, I also question could these be the last Estimates that this GSLP Government will bring to this House? I pose the question not because they are going to do away with the House completely at least not quite yet anyway but I pose the question because time is running out and that brings

me back to my original question. Is the Chief Minister seriously contemplating an early general election? Perhaps next year? The Chief Minister often repeats that they are not moving fast enough and the Estimates, I think, confirm that the Government is certainly not moving fast enough. I have heard the Chief Minister say so on many occasions that they would like to move a lot faster than they are doing. Moving fast enough in the direction that they wish to move because even with the privatisation programme, and Mr Pilcher might claim that to be Socialist, but the privatisation programme of the Government leaves a lot to be desired on the political spectrum. Even with the slaughter of the Civil Service, not a wholesale anymore, this is another slaughter of the Civil Service, the Government is still unable to reduce recurrent public expenditure fast enough. Now that the whole of Gibraltar knows that the word "restructure" in GSLP language really means "slaughter" in everyone else's. In order to move faster does the Chief Minister now intend to take on the Police, Customs, Teachers, before or after the next general election? It is a question that when he exercises his right to reply perhaps he can inform us. Because, Mr Speaker, Members opposite are not taking seriously the question of secrecy. There is a distinct atmosphere, because 1984 passed six years ago, but today in Gibraltar, I can tell Members opposite, that they might be very smug about it, but there is a certain fear, certainly amongst the Civil Service, and people in the street are also very concerned at the attitude of the Government generally on matters that they consider to be open Government but which to all of us on this side of the House and certainly a lot of people on the street, they do not appear to be fair. We wish to be fair to the Government and in our attitude towards them but if they try to hide everything then there is no way that the Opposition can do its job, in this House or outside this House, if we do not have information. The Joint Venture Companies which we know are all doing miserably but Opposition Members have no information whatsoever and this is the cornerstone of the Government's economic policy and yet nothing is known about them. To show on page 5 Revenue figures as £85.6m is being a bit cautious to say the very least. Whilst the Government might think that they are getting their economic projections right, the economic distortion for the ordinary man in the street is becoming more acute and it is becoming apparent every day. This debate has already been described as a non-event and it was described as a non-event last year and the year before. There is nothing for the people of Gibraltar, no goodies, absolutely no goodies, but, Mr Speaker, Mr Bossano yesterday gave us a lecture on economics and today I will give him a lecture on history. Because there was a person by the name of Marie Antoniette in France who when the people of France were told that there was no bread she said "let them eat cake" and her head was promptly cut off. Well Mr Speaker, by the way there was no cake either this year. For how long does the Chief Minister of Gibraltar think that the people of Gibraltar will allow their earnings to be eroded year by year? For how long does the Chief



Minister think that the pensioners of Gibraltar will be content with the meagre handouts that they are receiving? For how long does the Chief Minister think that the people will continue to tolerate his policies? Policies, Mr Speaker, which even Margaret Thatcher would not contemplate and certainly the AACR would never have dared to implement because had we dared to do so we would have been lynched downstairs. But of course the same does not happen to the GSLP today and they can rest assured of that. What original success can the GSLP claim? I can think of only one, Mr Speaker. The Honourable Minister for Education, Mr Moss, has claimed this morning that Homeownership was an idea of this Government and I accept that this Government has taken our concept of Homeownership further, perhaps they would say much further, but I would say a little further but to claim that Homeownership was their idea is a bit too much. There is one success for the Government and one success only and that remains to be seen if in the future years it is not there to stand as a white elephant to Mr Feetham's name. For Gibraltar's sake we certainly hope that is not the case and I go on the record on that. Mr Speaker, the Chief Minister during his lecture on economics yesterday, described the Improvement and Development Fund as one of the most important elements in the Government's strategy and which I do not disagree with but he omitted to say how the funding was being done and I sincerely hope that when he exercises his right to reply he will explain the figures that are included in the Revenue side for 1989/90 £16,178,600 and for 1991 £25m. Mr Speaker, those are the Revenue figures included in the Estimates. What are we selling? What has been sold that was worth £16m? What is going to be sold this year during this Financial Year for £25m? What is it composed of? Are we selling our birthright? Has the AACR to change the slogan of "The right to our land"? Because that land will not be ours anymore or at least not there for us to take. The Chief Minister also mentioned Business Registration. Why the delay? Why has the Government decided that it will be channelled through the Gibraltar Development Corporation? I think I heard this correctly yesterday. Surely one would have thought Business Registration a pure function of Government? Done directly through the Government and not through a Quasi-Government body like the Gibraltar Development Corporation. Mr Speaker the Honourable Minister for Tourism and the Honourable Minister for Education have both made their contributions and I will therefore now deal with their departments. If there is any point that they wish to question I will give way, if not they have the opportunity to do so when we go to Committee Stage. Mr Speaker, how can the Government justify the meagre spending on tourism in the Improvement and Development Fund of £50,000 only. That is what is included for Tourism Projects in the Estimates the sum of £50,000. They can correct me later when they have checked it. Under Education there is in the Improvement and Development Fund again the sum of £15,000 for replacement of windows in one school and £50,000 for St Martin's for the repair of its roof. I do not disagree that those projects are necessary, Mr Speaker, but tourism provides revenue and one understands that education does

not but it does provide one big asset and that is the future generations of Gibraltarians, our biggest asset. Mr Speaker, the Honourable Minister for Education this morning said that there is now a Feasibility Study to be carried out between 1990/92 which will cost the Government £50,000 that is included in the IDD Fund. Mr Speaker who does the Hon Member think he is kidding? Because in political language that means that he is not going to do anything for the next two years. Feasibility Study? There will certainly not be any new projects starting during this term of office. It is absolutely impossible because by the time they start planning it will be during the next term of office. To say two years later that he is now going to conduct a Feasibility Study is political hypocrisy. I know it because I have been on that side of the House and I have had Feasibility Studies conducted and the Hon Member is not kidding anybody. The Hon Member might be kidding people who are new to politics but to say he is conducting a Feasibility Study today, in 1990, and introduce it two years into the term of office is a bit ridiculous. The Minister also in replying to Question 49 of 1990 in the last meeting of the House of Assembly misled the House and I would like an explanation as to why? The Hon Member laid these Estimates at the last meeting of the House but the question had been asked, I asked a specific question on the number of posts in the Education Department and today these are not confidential anymore and I can use them although I could not use them at the time of my question, and he has to give this House an explanation because those posts have been abolished and he refused to answer the question directly last time. Generally, Mr Speaker, we are disappointed with the Government's attitude to Education. There is general concern in the department, whether the Hon Member likes it or not. There are no new projects being even planned at this stage, but now Feasibility Studies are mentioned. The lack of new projects is putting pressure on the Education Department and there is concern by teachers. It is very good to give a coat of paint to buildings and we do not disagree with that but to say that that is the extent to which the Government will go in the Education programme is I think not putting emphasis on what is required. Schools that were planned by the AACR prior to the last general election and extensions to schools to improve existing facilities which are necessary, and I do not want to go into the list, Mr Speaker, but there were two or three new projects and an extension to St Anne's School and new schools in the South District. That has now gone by the board because that will not happen certainly in this term of office. I congratulate the Minister however on the smoothness which the National Curriculum appears to be being introduced in Gibraltar. The introduction of the National Curriculum and I know that the staff, the teachers and the teaching profession generally have put in a large amount of very hard at work in planning for this. Mr Speaker, the Minister also mentioned that they were giving the option to students on the matter of training students, the diagnostic year and he said that they had consulted many students and the professionals in his department. I do not know how many



professionals he consulted but according to these Estimates the fact of life is that there are now two professionals in the department. He must have consulted both of them and he consulted the GTA. The diagnostic year, Mr Speaker, was an important and useful element in teacher training because it allowed the student to ensure in his or her own mind that he or she really wanted to become a teacher. He or she would spend a year in the classroom and get to know what it was to teach. Young people are now going to be given the opportunity not to do it at the beginning and they may do it at the end of it. Mr Speaker, it could be that many students will now go to the United Kingdom and they might find that teaching is not for them and I say so not because it would be wrong for them to do so, but because we are going to face and we are already facing a serious situation in the recruitment of teachers and this does not appear to be a diminishing problem, it is going to be an increasing problem in the future. Whereas four or five years ago the Department of Education was 95% staffed by local teachers we are going to revert to the years when 20% to 25% or even 50% could end up being expatriates and we do not want that. We want to ensure that the local teaching profession remains as much as possible a local teaching profession. I took the point that the Minister said, of course, that the teaching profession is not attracting as many people for the obvious reasons that we are all aware of. Certainly in the UK they are having the same difficulty. Mr Speaker, I move now to tourism. I have to criticise the attitude of the Government generally on tourism. We know it is a bad year for the reasons that the Minister has explained and I do not disagree with him but what is he doing to redress the situation? There are no seats available to come to Gibraltar during the whole of the summer? How does he expect to get tourists to come to Gibraltar if there are no seats? Perhaps he can tell us what he is doing about it? The Hon Minister can go to Northern Europe but it is pie in the sky that he is going to bring tourists from Northern Europe. Mr Speaker, marketing is done with an end to realising some potential but to date, Mr Speaker, we have not seen that marketing being realised in a practical and realistic manner to bring people here. The product is not right and the Hon Member knows that the product is not right. The Hon Member says that he is doing a lot to redress the situation but more has to be done because the product has to be right. Mr Speaker, with regard to sites, the numbers are dropping and the numbers are dropping because the number of people from the Coast are diminishing we know that and it is for the same reasons that the tourists are not coming directly to Gibraltar. We know that but the Minister goes and says that he will increase the price to enter the Cave to £1.50 instead of the previous £1.00. So we will have a situation where the numbers will drop even further, although perhaps the same revenue will be maintained. I think, Mr Speaker, it is a fallacy to increase prices now and I think the Minister will find at the end of this Financial Year that his figures will have dropped even further. I predict that that will be so. On the Airport, Mr Speaker, we welcome the extension and the

improvements of the Airport because that was necessary, absolutely necessary, and I have used the Airport recently even with all the constructions still taking place and you can see that the improvements to the Airport are quite substantial. Mr Speaker, if the Government do not sustain a policy on tourism which is realistic, and the Opposition are unable to look at what the promotion figures and what the advertising figures are because the Estimates do not reflect anything with respect to the Gibraltar Tourism Agency then we are unable to gauge what the Government is doing in this area. The Honourable Minister has not mentioned what he intends to spend money on or what the Tourism Agency intends to spend on promotion, on advertising etc. If the Government do not get it right then Gibraltar will suffer, from a touristic point of view, we will have less people, the hotels will suffer and the infrastructure of Gibraltar will suffer. I have not quantified, and I am not an Economist, what tourism represents in general to Gibraltar but the Government have got it wrong. There is a lot of pie in the sky with regard to tourism in the way that the Honourable Minister for Tourism is tackling the problem. The Hon Minister has a problem on his hands and it is not different to other small nations all over the world and I accept his analysis that more markets are becoming available to more people or to less people and therefore there is more competition. It is a very difficult business, I know that from a personal and professional point of view, I know that but I do not think that the Hon Minister is tackling the problem in the proper way. He is paying lip service and perhaps he has too many problems in Gibraltar and he does not have sufficient time to dedicate to tourism. Perhaps that is the answer. But the Government have got to get their analysis of tourism correct for the future because if we do not redress the situation now, the situation will not improve. Interest rates are not going to come down at least not for the foreseeable future, the difficult situation is going to remain. The Hon Minister has to get more seats so that at least tourists can come to Gibraltar. If we do not have the seats, and it appears that we are not going to have seats this summer, then certainly we will not have them for the winter. It remains to be seen, Mr Speaker, whether we have them or not? Of course he should carry on going to Copenhagen and with other Northern Europe destinations. But, I think, he should also put some effort into the mainstay of our tourism which is the United Kingdom and will always continue to be so for obvious reasons. Because if it were not for the British tourist coming on their day trips then the figures that we have would be 50% lower. Thank you Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, in explaining my position on the Estimates and generally on the state of the economy, can I start by making a few introductory remarks on the Chief Minister's contribution and initially on the question of statistics. I think it is useful that the Chief Minister is giving a little more attention now to the question of the compilation of statistics following the questions that were tabled in the House earlier this session. I think that as a measure of the Government's performance they will be important and I reserve further comments until one sees the degree to which the figures retrospectively have been affected by the exercise which the Chief Minister has outlined. I think it is important however that whilst we politicians in this House can look to the Government towards measuring their performance in terms of the statistics which are now going to be revised, that points should be made without talking about the man in the street, this magical entity, the point should be made that as far as the community is concerned more specific targets in terms of social aims should be earmarked that we could relate to more easily. This is a point that I have made in the past and it is interesting to note, in fact, that in the GSLP manifesto, although I accept that it was a GSLP commitment to see growth increase by 50%, the GSLP manifesto interestingly enough, Mr Speaker, does not even mention a 50% growth figure at all. There is no reference in the manifesto of a 50% growth and I say it is interesting only, not because I was saying that it was not a manifesto commitment, but because in terms of what people relate to and in terms of the votes the Government was seeking, what they were hoping that people would focus on was not just 50% growth which is maybe an important or is an important indicator in itself, but certain social consequences which that sort of wealth creation would bring. For example there is specific mention of a second Health Centre in the South District. There was a specific commitment set in the context of improving the Medical Services. The manifesto said that it was going to take much more than four years to get the services up to the level that should exist in Gibraltar. As a start we will put the following and one was the Health Centre in the South District. I think it is important to do that, Mr Speaker, because unless we pin the Government to actual social targets then a lot of this debate becomes meaningless and a lot of the way we explain things to people become meaningless to. Although the Government is going to be, I imagine, reluctant to actually identify things mid-term, I would like the Chief Minister, if possible, to relate that growth specifically to commitments that were made, like for example the second Health Centre and whether that sort of commitment made in the programme is going to materialise. We have the position of five hundred houses which the Chief Minister has said on television. He said do not ask me now ask me at the end of the four year term and of course as far as we are all aware the

five hundred homes will come or the balance of the five hundred homes will probably come from the Westside II project if all are not purchased. I again do not want to be unfair in that I accept that there is a four year term and barring early elections that it is within that time scale that the Government should be judged. But I make the point that it will be wrong to distort performance and an analysis of performance by looking at statistics because that is something on which they went to get votes for and on which the people voted. I think that the growth potential which the Chief Minister has indicated and which, in fact, when we look at the statistics at the question session, earlier in this House, the Chief Minister accepted reluctantly or accepted, I think, I do not want to put an adjective on it, accepted that within the last four years between 1984 to 1988 there had been a significant degree of growth as reflected in the statistics itself, growth approximating 50%. Not that I am belittling a similar performance now in probably more difficult circumstances as a result of the factors that I will relate to, but I think that the growth which has been talked about masks a rather more complicated and less optimistic economic scenario than would otherwise be painted. In other words the impression of saying as the Chief Minister said, I think, in one of his mid-term address to the nation, certainly at Christmas, that we have been the third fastest growing economy after Singapore and Taiwan, I believe he said, or Thailand and that this year the aim was to be the fastest growing in the world. That sort of explanation, even if justifiable on certain technical grounds which I still have to be convinced of, distorts the snapshot of the economy which the Chief Minister is basically saying today when we are considering the Estimates. And I say that because in looking at the economy and in doing away with the question of pillars, and I do not want to get into construction terms, there are certain industries and members on this side have already started to pinpoint the reality in which certain industries find themselves in Gibraltar. Without wanting to repeat much of what has been said, Mr Speaker, if we look at tourism we have a situation of stagnation on flights. I think it is not unfair to use that word. We have a situation of difficulty in Hotel occupancy definitely. We have a lot of problems with our day-trippers for reasons external to Gibraltar's control but we do live in this world. I do not think that the liners calling into Gibraltar are really showing a marked improvement either. So in this major industry, Mr Speaker, there is a serious problem. If you look then at the question of economic development generally in terms of bricks and mortar there is a real concern, there is a concern of a very significant slack in demand and on the supply side although Europort is potentially growing very fast it is interesting in this respect and I do not want to spend too much time looking at the past but the Chief Minister himself in his contribution to this debate last year was absolutely right when he said, referring to the construction that was taking place in the economy, he said "I think it remains

to be seen and it is an important test of confidence in the economy to what extent the completed projects that we are going to be seeing this year will develop into having tenants and generating economic activity and creating employment. In a way it is an important testing point that we are reaching now because until now much of the development has been based on confidence and now that confidence has to be translated into reality". I think those were his words and which I entirely concur with. That position is very much the same today, Mr Speaker only I would suggest in an equation that is becoming a little more unbalanced and I will elaborate on this point further. I accept the premise that Gibraltar has to take certain gambles to make a transition from an economy which has to change so fast. I think that is unavoidable. The point is that in taking those gambles the element of confidence which is important that we introduce at some stage in order to start translating that gamble into reality is perhaps taking a little longer than expected. I would be interested in the Chief Minister's comments and in what he thinks can be done to start redressing that slack demand. I will elaborate some of my thoughts further on that but we have a real problem because I think the stage is fast approaching, Mr Speaker, where developments like Europort are going to provide a massive injection of office accommodation in Gibraltar, first class prime high rent seeking accommodation, and unless we look for activity to fill them then we are going to be left with a problem. If one looks at the Finance Centre, I think, the problem is similar though not as serious. I think the Finance Centre is the one industry where we can say there is a fair element of growth but I suggest, Mr Speaker, much much less than what we should be doing. I think we are just superficially scratching the surface and that to talk of growth in the Finance Centre is only growth in terms of looking at some figures like Bank Deposits and another Building Society coming in and there are still a few Banking applications for new banks that are pending but I really think that there has not been the sort of development in that area which we should have had. True there have been certain circumstances like Barlow Clowes, external factors in the UK, which have meant less money generally and that has had an impact on Finance Centres, but there has not been the sort of growth which there should have been and which would have improved the confidence equation. I hope very much, and members will know that I have been pressing on this in the past year, that with the establishment of the Financial Services Commission and the promotion that the Commissioner will be involved in we will start to redress that situation so that we can look for further growth. I would just want to say that this cannot be done on the cheap, Mr Speaker, this is something which I hope the Government when it sets up the Commission and when they actually put into place the people that are going to manage this business they do not act in a penny pinching manner. If we are talking about gambles, I am the first to support the gamble of having the Commission properly staffed even

if it is going to cost us a pretty penny. I think that that is a gamble that has to be taken because unless you do that then it is not going to be possible for us to exploit the potential that exists. At this stage I want to make reference to a remark which was made in this debate and I think can only be stressed and that is the degree of competition which we are facing from other centres. Increasingly more and more places and not only with respect to tourism, but tax centres or international business centres whichever terminology you prefer, for outside investors in a general sense and places that are very small and the Chief Minister was in Madeira and I know Madeira quite well from contact with the Madeira Development Corporation and Mr Costa who normally represents them. They are doing a lot from an extremely low baseline because they had nothing and they are now moving into the Finance Centre world. They have a lot of the things that we do not have under the EEC Membership ticket and they have similar arguments and unless we really establish a lead in things like supervision and the time it takes to process applications, then, I think, that we have so many competitors that might have a negative impact on Gibraltar. Let us not deny it, things like, for example, the political equation which can have an impact on the work we get. So I think it is vitally important to maximise what we have. Mr Speaker, Shiprepair is another industry which we are all very worried about and it is unfortunate that we cannot look at shiprepair in a little more detail at this session. Because in looking at the economy we are not taking into account what will happen to the shiprepair industry and it therefore means it is a debate with a huge hole in it. I think that also it is going to create a tremendous burden to the taxpayer because of the size of the yard and because even if there are not people that are going to end up in unemployment because they are immigrant workers and they will leave or at least many of them will, if there is a further reduction in the yard then the cake starts getting smaller and we have to pay more. The position, Mr Speaker, on MOD cuts and the PSA commercialisation, I think, that the situation there is that we simply do not have enough information at this stage as to what is going to happen but there is no doubt that the effect is going to be significant. However for the time being we are not going to see any impact until I imagine the end of 1991 or early 1992. So we are safe in the short term but we are loading up the problems so that any growth that is occurring in the Private Sector is certainly going to have to be absorbed if nothing else. Firstly the Government Public Sector cuts and then the MOD cuts. So I think we have a picture, Mr Speaker, of an economy where things are not rosy, far from it and therefore we are caught in this situation where you have on the one hand talk of the fastest growing economy in the world and on the other hand talk of the fact that in most of our industries we are going through difficult times. The growth that we are seeing or that we are told we are going to see is growth which I am going to be

suggesting is at least largely or most of it Public Sector led through a process of infrastructure creation and through borrowing and enabling the economy to grow in anticipation of private investment interest which will come on the back of that. I do not think that is a bad analysis or bad position to be in, assuming that the analysis is accepted however what, I think, is important is that people realise that when Government talks of growth and the fastest growing growth in the world that it does not mean that we have the best and most prosperous economy in the world. I think, it is important therefore to have a degree of clarity in the terms one is using because the reality is a very difficult economic situation. Now I want to balance the very difficult economic situation we find ourselves by reiterating one thing that I have alluded to and which is that I believe there is a huge potential and interest in the ability that Gibraltar has to become much more important economically to investors. I am involved in a fair amount of promotion, at professional level, and I can tell members that the degree of interest is enormous but we are failing to translate that interest into reality. I think that we are involved in a gap where people look and say "my God this place is going to take off", but they do not dare step inside and make it happen. And I will hopefully suggest why that is not happening and what collectively, as a community, we could be doing to make it occur and not let those opportunities go by. The main problem, I think, at this stage is that the Government has not got a clear idea of what Gibraltar is selling. The Chief Minister said in his contribution that we have been a one product economy mainly servicing the MOD and that that one product now has become obsolescent and that therefore we now need to sell other things. I believe the Government has not got a clear idea of what it is selling. I think we have a situation where basically the Government is saying to the world we are open to business but it has not properly yet defined what that business is. It is like a shop retailer who wants to say "I want any business that comes to the door, you want a camera I will find you a camera". It is just not possible in a place of our size. We need to start earmarking with much more exactitude what it is that we are seeking to go after. For example in the tourism area, the new Corporate image of the Agency is supposed to be more upmarket etc. Well if that is correct, and I am not going to make a judgement on it, then surely Gibraltar's infrastructure is inadequate for upmarket tourism? Therefore that it is not a strategy that should be pursued at least for the foreseeable future. If you look at other upmarket resorts like Monaco, San Marino who is going to come to Gibraltar when they can go to Monaco. What I am trying to say is that whereas I would accept upmarket as being a potential strategy when Gibraltar's infrastructure is different to what it is now, surely it is not that a realistic tourism policy at the moment. The tourism policy today must be a different one. It must be based, for example, on, I would suggest, exploiting our Heritage a little better. It could be, Mr Speaker,

that the Minister will say well the upmarket aspect covers that sort of element, but I have mentioned to the Chief Minister before in a private capacity the aspect of the conference market. Today we have very little Conference facilities, but with relatively little investment in terms of another major hotel which hopefully we will have with Conference facilities we could really start looking at that potential. That sort of thing, I think, is much more the sort of market we should be identifying than the upmarket which I understood to be the high spender, the man who wants to fly in on his private jet and wants to spend money in the Casino and visit the best restaurants, the best shows, etc and that is not a reality which is achievable in a short period of time. Now if the Minister is saying that they are looking at much more than up-markets then I will go along with that but since we do not have details for the type of promotion that the Agency is making, my comments must necessarily be made from a position of being in the dark. Again, Mr Speaker, I will deal with the Finance Centre. Let me put it to the Government that I think it is wrong to try and do everything. One cannot do everything because we do not have the professional infrastructure. There are seventy lawyers and twenty accountants and a dozen banks and we just do not have the expertise or the depth of knowledge to go out to the world and say "we are prepared to do anything from a European Bond issues to Shipping to Captive Insurance". Well, it is just not on and I think that if you look at other places like the Isle of Man where they have said "we will look at shipping" and they have been very successful at that. They have been very successful in Captive Insurance, we have to do this and maybe the Commissioner will be helpful in this respect of what of the whole huge area of services, Gibraltar could offer bearing in mind the sort of people that we have, and the expertise that there is available. If we try and sell everything then we are always going to be in a learning curve for everything. I know and I accept that there are no efforts spared to get things done quickly at a political level, that I am prepared to accept, but when it comes to the people that have to do it then the knowledge is just not there and it is not just in the Government but also with respect to the professionals. We are all on a learning curve and I think it is better to maximise our learning by trying to focus on certain areas rather than doing it all. I think it is a mistake and I hope that the Commissioner will focus on that and if not maybe the Minister that will have overall responsibility will be able to consider areas in which Gibraltar could benefit. Shipping is one area, as I have mentioned, because we are so ideally located for shipping that to have the sort of shipping register that we have is unacceptable. It offers much less favourable advantage than what there should be although we have much more stringent controls on shipping, on manning levels and things like that, but I really think we have not exploited this market sufficiently. That brings me, Sir, to the second point

or to my second main theme of why, I think, the economy and on the confidence equation we should be doing more. The Government is involved in a large scale on a promotional effort and I would suggest, Mr Speaker, that that promotional effort is not being maximised in the way it should be. I think that rather like we are doing as a financial community, the Government is trying to sell everything. We will sell it all and in its enthusiasm is trying to promote everything, everywhere and to everyone. I think that having now perhaps established a certain international profile for Gibraltar, I think, the time has come for a more clear pinpointing of how the promotion is going to be undertaken and where it is going to be undertaken. I think there is a distinction between promotion proper and fact finding. For example when the Chief Minister goes to Liechtenstein or Madeira, etc it is fact finding but, I do not think, that in Madeira they are going to send us anything or we will send anything to Madeira. I think that is legitimate even the Chief Minister is in on a learning curve and a fact finding trip is useful but it is not promotion. Promotion is when you have decided what the product is and then you say "these are the people that I want to target" and in that respect I do not know whether Ministers are the best people to do that. Basically if it affects Financial Services it could well be the Commissioner and maybe somebody from the Finance Centre. We have got to look much more carefully in promotion at specific bodies which actually make things happen. Whether it is the Finance Centre or Tourism or whatever and we must draw a distinction between fact finding and promotion. So while welcoming promotion in general terms, I think, that we must not lose sight that promotion must be more clearly defined in what we are looking at and to divorce promotion from fact finding. The position of the Government expenses generally, Mr Speaker, is one in which the Government is caught in a dilemma because of this confidence equation and a dilemma which is almost insoluble. The dilemma being the following. You have an economy which can no longer be sustained from its traditional sources and we have an economy which can no longer seek or cannot pretend to seek new types of investment because our infrastructure is so deficient. So we simply do not have an income flow from any fresh source sufficiently strong to sustain levels of public spending to which we have been accustomed and at the same time actually put into place an infrastructure which will allow the transition to a new economy. I think that equation has been made worse for the Government than they even anticipated two years ago and although I cannot read their minds I would have thought that two years one would say, if I had been on that side of the House, that funding for the infrastructure was going to come from borrowing and from the sale of Government assets it now is also going to require a cut in public expenditure in terms of current expenditure. I think what has happened is that the growth in the private sector side of things probably made worse by what is going to happen with the MOD and the problems that we are loading up in the next

two or three years made the Government say "hold on I cannot count as a certainty on any new activity, so I have to start paying for my infrastructure and my borrowing solely from the resources that I am producing now. If that is correct then, I think, that is part of the reason why the distortion and the need to race ahead has occurred. I think the Government says "unless we race ahead and unless we make the savings of recurrent expenditure there simply is going to be no money. Because the cake is not getting big enough from the other things that we hoped we might have had to take a more relaxed and meditated approach to the restructuring of the public sector. Because of that, I think, that we run the danger of the restructuring of the public sector being rushed. In an economic sense I am the first to accept that unless you do that somehow the figures just would not square. But, I think, that we have to start also concentrating, and I admit it is not easy, on how we can start getting those other parts of the cake to start growing quicker. How we start redressing the confidence balance in a way which will allow a measure of, if not moderation, but a more pedestrian approach as to how we have to restructure the public sector. I think that at present, the Chief Minister is saying no because it is a matter for value for money and people are entitled to value for money notwithstanding the fact we had extra income coming in from the private sector it is still a worthwhile exercise in itself and would happen anyway. That is a matter of political judgement and a matter of how far you want to take people. I think people want to change but there are ways of changing. You can talk to people and it might take you six months and if you do not talk to people then it takes two weeks. So it depends on how you want to do things. I believe that because of the constraints economically the Government finds itself with little choice but to restructure at a fast pace notwithstanding the merits the restructure might have otherwise. The way the restructuring is taking place and the way the Government is acting in trying to get Gibraltar to move from a transition economy based on MOD involvement to a modern economy, I think, is giving rise to what I believe is becoming a major issue in our city and which is the style of Government that we have. I think the Government is saying we have a drastic problem and drastic problems require drastic solutions and we simply cannot be held back. The Chief Minister in his contribution last year said something which in a sense was frightening but I respect that it was in an exceptional sense "that no amount of opposition was going to stop us". So it is not a question of people saying "we are going to stop" because he does not want to be stopped. I think that because of that pressure we are developing in Gibraltar a style of Government, and I am not going to make a judgement as to whether it is a political decision taken for reasons of ideology, but we are developing a style in Gibraltar which is lamentable and not in Gibraltar's best interest. There is, and let us not deny it, there is a general reluctance, if not fear, then at least certainly anxiety



about talking openly about things that the Government does. Maybe it is a fact which people perceive and which the Government feels is not justified and that you are not going to shoot anybody who says, "Mr Bossano has let us down". But the fact remains that there is a perception at almost every level in Gibraltar that we have a Government that is not sympathetic to the idea that people can disagree with them and are prepared to take steps to disadvantage people who might disagree with them and that is bad for Gibraltar. I think the style that the Government has started to transmit is as a result of the pressure that it is under. It has therefore to try and sort out the situation even at the expense of stamping out disagreement because that would make their task more difficult. Knowledge, Mr Speaker, is power and I always say that without knowledge there is no power and knowledge in terms of what is going on is the power that we on this side of the House and people outside the House lack. We can say why has there been a deal with NYNEX done in this way and why has there been that deal done with Baltica that way but we have no knowledge and, I am not going to make a judgement on motives, but, I think, the Government is out to deny others that power because it is not prepared to see a slowing down of what has to be done because the time is tight. If we have got ourselves into that corner, I think, the Government is going too far in denying a basic level of information to people and certainly to members here. I think the values of openness in our democracy should transcend those short-term considerations which are compelling the Government to have to rush through a whole system of restructuring because of the dilemma which it finds itself in. I think that its position has not been helped by a certain contradiction which exists in the role of Government itself. On the one hand you have the Chief Minister saying that the role of Government is to basically provide top quality public utilities and the right top quality services which are going to attract investors and make Gibraltar a vibrant economy and on the other hand you have a situation where Government is actively getting involved in business which has no public element like a public utility company directly in competition with local businesses. That is a contradiction of roles which I think is confusing and a dissipating of resources. I think, Government Ministers are spending too much time sitting as Chairmen of Joint Venture Companies, basically running businesses in competition with private businesses as opposed to focusing on the public utility and the promotion of Gibraltar. As far as we are concerned, the Social Democrats, do not believe that the Government does well in Joint Venture Companies which are simply normal electrical, plumbing or such industries in competition with local trade. I accept one point, Mr Speaker, which is that in the exercise of redeploying labour, and the problem of getting them out of the public sector and into the private sector, the Government obviously sought to privatise under the guise of the Joint Venture. But what I am saying is that in

seeking re-deployment there has to be a certain logic. Once you have successfully re-deployed people into a Joint Venture Company then there should no longer be a need to go any further. They should be left to a private sector environment unshackled by Government. I think that is important because otherwise there is this contradiction which distorts the role Government should be playing. Having touched on re-deployment, Mr Speaker, I want to turn now to the question of training and the inadequacy of the Training Scheme as it exists at present. Government may say: "Well, it is a lot more than what has ever been before". I am not going to go into that because I think the problems we are facing today are so much more acute than the problems we faced five years ago and that the training requirements have shifted fundamentally. What we have now is not really a Training Scheme at all, Mr Speaker, as I have mentioned before and I know the Minister opposite has said that he will be looking at it and at this session of the House we have learned that there are four more courses that they are now going to supplement with the practical training. Training means acquiring a skill. It does not mean ending up in employment because what is happening is that people are getting into "trainee" jobs, and filling a gap in a particular organisation for example, a messenger. They are filling a gap and employers are saying: "we will employ you". But we have the real danger in Gibraltar, Mr Speaker, of becoming a society where since we have to rely on expats coming in and we have to, and I will address that later, of becoming a population where some people are at one strata, be it as the lawyers or as accountants or as bankers and then you have a whole other strata of people as waiters, messengers, people with much less skills. It has happened in places which have grown very, very fast, because unless we get our skills up to scratch, our labour pool will be of people who are not qualified. Secretaries who are not fully qualified, Accountants who are not fully qualified, and I think, there is a real danger and it is a problem that we can only redress by, I feel, a relook, at how that training scheme is operating and make an attempt to get much more qualifications involved. It is not that I have a bias for qualifications, it is not like that at all, Mr Speaker, but the fact remains that unless you put people through a formal process of training, they learn things and because eventually you learn things as you pick things up you are never going to get to any significant degree of competence and you certainly are not going to be trusted by an organisation in getting to levels of responsibility. The Training Scheme, I would have thought, is a fundamental cornerstone in Gibraltar's policy. Mr Bossano always speaks of a re-deployment of skills, I actually do not think that is the case, we have no skills to re-deploy because the skills we have are the skills we do not need. We have a re-deployment of labour and that labour, with the huge problem it faces in terms of people already beyond a certain age, has to be retrained or we have to find employment for them in certain capacities in a transitional situation until



those people are out of the employment pool. In some things we are transferring skills Mr Speaker, maybe in plumbing and in certain other trades, fair enough, I agree, in certain things there is a transfer of skills from the public sector industrial section to the private sector and into the construction trade in particular, but in the real growth areas which will become construction and finance centre at this stage as we see it, because one is riding at the back of the other, certainly we do not have those many skills which are easily transferable and most people have to go through a re-training process.

MR SPEAKER:

I was going to suggest that if you have much longer to go perhaps you could carry on this afternoon. The House will now recess until this afternoon at 3.15 pm.

The House recessed at 1.00 pm.

The House resumed at 3.15 pm.

MR SPEAKER:

Before we start we should consider the weather and I think perhaps it is about normal and therefore justified to allow Hon Members who wish to, to remove their jackets. I call on the Hon Mr Montegriffo to carry on with his speech.

HON P C MONTEGRIFFO:

Mr Speaker, before we recessed for lunch, I believe I was commenting on the importance of training and the exercise the Government said it was involved on in redeploying workers that used to be in the public sector into the private sector and the comments that I was making were that the Training Scheme which we have was simply not going far enough to give Gibraltar the sort of skills that were going to enable our people to take up the opportunities that are going to arise.

Mr Speaker I will now deal with the spending that the Government is involved in with infrastructure and how that is being funded and the fact that there was a confidence equation to complete and how it could be done to try and close the gap and translate the interest into reality and I had already earmarked the question of promotion and the fact that I thought that the drive in promotion was misdirected or partly misdirected. I am not saying that it is all useless but rather that it is partly misdirected. I also said that we had not had a clear indication of what the product was and what Gibraltar was selling and that Government had to get that right before we could really attract people. We had to develop the expertise and the services to actually respond to what we were seeking to attract to Gibraltar. I also

want to raise the question of communications to Gibraltar, which I want to raise before the close of my contribution. Certainly in my experiences in the promotion sphere, the question of communications in the territory has always been one of the highest priorities on the list. I think the improved telephone communications is a major boost, notwithstanding the fact that we do not like the way in which there has not been more details of what has actually happened with NYNEX with little element of public explanation. The fact remains that the service today is a much different service to the one of three months. Of that there can be no doubt and I think people looking towards Gibraltar can be reassured of that. The other main area is the area of air communications and I think it is important for us to also raise this issue. The interest of investors in Gibraltar would be enormously enhanced by the improvement of air communications. My perception of the situation is that there is rightly or wrongly an appreciation by outside investors that the opening up of air services to Gibraltar would be a significant boost and we are caught in our well known problem with the Airport Agreement which is, I haste to add, not acceptable to anybody in this House as far as I am aware. There are however other avenues open and the Foreign Office man who visited Gibraltar, Mr Greenstock, last week is apparently commissioning a study into the benefits of an Airport Expansion Arrangement and within the context of the Airport Agreement itself it is said, if the Chronicle is right, that study was apparently welcomed by Mr Feetham who is quoted as having said that he was happy to see a study had taken place. I share that view and if we can gain more information on whether it is in the context of the present Airport Agreement or otherwise which would give us a better indication of just how interesting the opening up of further air services would be then I think that would be useful for us. The point that I wish to make and in this sense I am prepared to go further than others, but I actually do not think it does because I believe that there is a fair amount of consensus, is that notwithstanding our objections to the Airport Agreement, Mr Speaker, I think the economy and Gibraltar as a whole would benefit from the expansion of air services and that the Government should be thinking about possible ways of unblocking that impasse. I think the Government to some extent is already doing that without saying too much openly because if there are commercial parties interested in developing the airport and it was Mr Pilcher this morning who spoke about extending the runway and about works of that nature. I do not think that there is any suggestion that work of that nature can take place without there being a new arrangement as to how our airport would operate. So I think that we are living in the twilight zone, the twilight zone of people saying I do not want to know anything about rethinking the position of the airport but at another level, the level of the commercial realities which is what we are talking about today, about the economy and

people having confidence, the fact is that people are saying hold on, that is part of the message that is coming out not politically but commercially. There is an input going into how the airport could be expanded and that involves an element of cooperation with our less than friendly neighbours. Now I want to raise that point because in the confidence equation I think it would be wrong for us as Gibraltar politicians not to put that squarely before the people. We have on many occasions Mr Speaker, on many occasions and possibly will do so again in the future given up economic well-being, or given up greater economic prosperity, because fundamental things were at stake and as far as I am concerned if tomorrow there was a fundamental issue at stake I would be the first to say that we tighten our belts again because the defence of our homeland and the defence of what we have been fighting for for all these years is more important than a short term economic gain. But that should not however blind us to the possibilities that exist for looking at what we would find acceptable. All I am saying is that in squaring that equation, I believe, that outsiders look with confidence at a Government that is actually thinking of a way to improve matters. So I would like the Government to confirm that and I would look with dismay at a Government that was not considering that issue as an issue which in fact has to be resolved. I am under no illusions about the difficulties that would face us if we tried to open the door again to talking to our neighbours on this but I think it is vital that in looking at the degree of the problem that we have to be ready to discuss this important element. This would let people know that there is a realism in this House and a realism from the Government that those issues are going to be tackled and are issues that the Government is thinking about and which they are prepared to face head on. I conclude by adapting a phrase that the Chief Minister mentioned in his contribution, well not adapting but basically just referring to it. I think the Chief Minister said success is a factor which encourages more success, I think that one would say success breeds success. When there is no success, Mr Speaker, what breeds success is the fiction of success, so when you have not done very well you go out saying, I have really done very well in the hope that you are going to start kidding people. Of course, this is nothing new. If you are in everything, if you are a little tiny insect and you have a bigger one coming along then your defence mechanism is that you start to fan out an enormous set of legs that maybe only decorative but it puts the other one off and you are bluffing. In business if, in fact, you are not doing very well and if you are a grocer and you do not sell very much then you say business has never been better. I think that is an important part of any strategy and I am not saying that we are not being successful but I am saying that we have got to understand that the success we have had so far, that this Government has had so far, is a conditional success and a success which can in fact lead Gibraltar to a very very difficult and intractable economic problem unless the other parts of the equation

start coming right. Those other parts of the equation, I think, are not so difficult to focus on but it is a question of having the political courage to actually start dealing with those issues. We still have a little time to 1992 but that does not hide the fact that in the next year and a half unless we get firmer international interest the cake will start to flatten. I think it is crucial that we focus on that other side of the equation because if we do not we will be heading towards a community that will have the best telecommunications network, a very good electricity service, we will have very good privatised water facilities and we will all be getting better communications in our houses but there will be empty offices and empty flats. Not the sort of growth that we want and certainly not the sort of money which will only start, I suppose, to give back to people the sort of social services and benefits which I think they are rightly entitled to expect, certainly after a reasonable period of time. Thank you, Mr Speaker.

HON M A FEETHAM:

Mr Speaker, the last speaker, the Honourable Mr Montegriffo has in fact devoted a substantial part of his contribution in posing a number of questions to which he feels answers are required in order to establish what Gibraltar is likely to develop into during the course of the next five years. Let me say straightaway that, in fact, I ask myself those very same questions practically every day. Because those are questions that require answers and it is in the search of those answers that the Government is pursuing a particular policy. Granted that there are members opposite who are not in agreement with our policies but nevertheless they are an alternative to the policies that have been there in the past right up to 1988 and where substantially these policies were dependent on the military expenditure in Gibraltar and reliance on the British Government everytime they required money. Now Mr Speaker, since our taking up office, for the first time I have not really enjoyed the Leader of the Opposition's contribution, not because one does not expect criticism and opposition, after all that is the essence of democracy, but rather for the lack of realism and the lack of facing up to realities. Constructive criticism has been completely lacking in his speech in the House today. He has concentrated on instilling people to work against GSLP policies, however the realities are that when we came into office we were faced with a situation where the MOD position was going to be seriously decreasing in terms of its contribution to the economy and as the Honourable Leader of the House, the Chief Minister, has quite rightly pointed out, there has been a stagnant contribution by the MOD in Gibraltar and two years into office the position has become even more clear that GSL projections, based on the Appledore Projections, were highly questionable. These realities we had to face when providing alternatives and the question of development and land use, which was one of the issues raised by members opposite, were so restricted that it

was clear to us that if we were to pursue the policies that the AACR had been advocating at election time which was basically that all that Government required was fine tuning then today we would have been facing very serious economic problems. Mr Speaker, that fine tuning was based on the successful commercialisation of the yard and that has proved that the projections of A & P Appledore were so completely out that the more ships that were repaired the more money that would have been lost. The two major developments that were on the pipeline, the Queensway and the Rosia Plaza developments would have finished and nothing else would have resulted. Rosia Plaza which was going to be a comprehensive prestige development has finished up with fortyfive flats being built on a very beautiful part of Gibraltar which could have been built anywhere else and the Queensway development despite all the efforts of the Government has still to get off because of the way the deal was structured originally.

HON A J CANEPA:

Mr Speaker, will the Hon Member give way?

HON M A FEETHAM:

No, I am not going to give way on this occasion. I am going to tell you why I am not going to give way and that is because, as I said at the beginning, I have always listened with great interest to the Leader of the Opposition when he was a Member of the Government but in his contribution today the Hon Member has said a number of things to which I have to reply in detail. His contribution has been completely out of character and I am therefore not going to give the Hon Member another opportunity to say anything further. So if the Government had continued with the AACR policies we would today be facing serious trouble. Now Mr Speaker, why were the AACR incapable of producing the sort of economic growth that was necessary in order to meet the challenges of reduction in the MOD presence on the Rock and the need to restructure the public sector in the future, that is so important in a situation where we are no longer servicing a military base? The reasons are that we are now moving into a situation where for the first time we were in competition with the rest of Europe and indeed with world market trends and Gibraltar has had to meet that challenge. One of the problems that the AACR were facing was that our most important area of resource, our land, a great disparity existed between the land holdings held by the Government of Gibraltar and the land holdings in the hands of the Ministry of Defence. This was split practically 50-50 and because there had been no planning policies and because the previous administration had not been more strict or more positive in their relationship with the MOD and by allowing the MOD to continuously develop Gibraltar in such a way that it made it difficult to release land for development. The reality was therefore that the Gibraltar Government in everything they did were confined within their 50%

land holding but if we look at that 50% of land which is exactly the same today as it was when we came into office except for the plans that we have put into effect by producing new land and we find that that 50% or substantially part of that 50% is confined to the City of Gibraltar. Of course in creating economic activity the cost of developing Gibraltar and the cost of attracting investment into Gibraltar was restricted by the high cost involved in developing the City of Gibraltar because mobilisation costs as well as that most of that area is on high ground. So therefore the Government, in trying to do something, and because they were shortsighted policies, whatever piece of land was put out for development brought all sorts of problems with the heritage Conservation Group. For example, during the period 1984 to 1988, out of a total of £15m investment all that happened as a result of the AACR efforts was two major developments, the International Commercial Centre on a piece of land at the entrance of Main Street and Rosia Plaza. The first was a piece of land that they could actually develop, and I am not going to get into an argument about whether it should have been put there or not, the realities are that it was put there because it was the only piece of land that the Government could get hold of. The second was the comprehensive re-development of Rosia Plaza which, as I have said, has finished up with fortyfive flats or thereabouts because the whole concept was very badly thought out. The net result of all this has meant that developments were done in isolation of each other and in isolation of a comprehensive plan. Another thing, Mr Speaker, was that we were overloading our existing infrastructure and the present Government has had to deal with these problems. In that sort of scenario, Mr Speaker, it was clear to us that if we were going to obtain land to develop, because without land there would be no economic activity. There would be no construction and without construction there is no way that one can attract businesses to Gibraltar. This is an area, Mr Speaker, that I want to concentrate at some length to answer Mr Montegriffo. So our alternative was to push ahead with the Land Reclamation Programme of our own and I think the decision was wise and the decision has proved to have paid dividends because two years later on the 23 April 1988 I presented on behalf of the Government of Gibraltar a Paper to the Ministry of Defence outlining our position on lands in Gibraltar and two years later we still have very little out of the MOD. So if I had waited for the MOD and if I had waited to put in a comprehensive plan which would have been a natural extension of what the AACR would have done then most of the things that we have done up to now would not have happened. That is why I wonder at what Members opposite have been saying to us today and about their lack of confidence for the future. We went ahead with our Land Reclamation Company, we set it up and we have reclaimed 300,000 square metres of land which has done a number of things in itself and that must not be forgotten. Firstly it has given us a huge area of flat land for development, easy to mobilise on, easy to attract investment

on and easy enough to meet some of our social obligations in terms of housing. The response of the Leader of the Opposition and others was to say that that was a plan that they had intended doing. Well, Mr Speaker, plans are very good but actions are better and doing things is even better. The fact is that the plans that the AACR had were public knowledge because it is part of the City Plan and it is down black upon white and what they had in the City Plan, published by them in November 1987, about five months before the election, was "land in Gibraltar is at a premium, and assuming a requirement of 1,000 houses over five year period", this was at the beginning of 1988 or end of 1987, "we would need an area of 3.7 hectares or about one and a half times the size of Varyl Begg". They then pinpointed Montagu Basin as a possible area to provide those houses, but they were talking of an over five year period of 1,000 units and earmarking the first stage at the Montagu Basin. As regards further reclamation it clearly says here of a long-term ten year programme and they add a little bit more to the shaded area which is available in the City Plan and which was a ten year programme to which in fact they went out to tender and which we withdrew in 1988 when we came into office which would have added 30,000 square metres. So 35,000 square metres and 30,000 square metres of the Montagu Basin that was their reclamation project, something like 60,000 square metres. This is if they had done it. But you see the difference in concept and principle which differentiates what we are doing from what they were thinking of doing is that insofar as the Montagu Basin was concerned they were going to pay Gibraltar Homes £1.87m towards the reclamation infrastructure for the houses that they were negotiating with the Gibraltar Homes, £1.87m and, of course, the other 35,000 square metres which they were going to reclaim on the basis of the tender was that half of the land was going to be kept by the developer and the other half would go to the Government. Of course, what we are doing is that we have reclaimed 300,000 square metres, five times as much in twelve months not ten years. The land belongs to the Government of Gibraltar and it is disposed by the Government of Gibraltar and we have not paid Gibraltar Homes one penny. The land has been provided free by the Government of Gibraltar because in its overall negotiations of disposing of the land that we have reclaimed we have been able to do a number of deals at no cost to the Government. It has been paid for by the investors who are investing in the Land Reclamation Programme and the developments which are taking place in that area. So there are fundamental differences in approach and there are fundamental differences as to the way forward. The reality is that Gibraltar cannot sit back and wait for things to happen, we have to take the initiative and we have to provide alternative means for Gibraltarians aspiring to the standard of living that we deserve in the European Community. Not assisted by anybody but assisted by our own efforts because it is the dignity of the Gibraltarians that for the first time is fundamental in trying to do something for Gibraltar. If we had continued the policies

that the Opposition were so positively trying to pursue in their dealings with the MOD and in their dealings with the British Government which led to Gibraltarians being tied down by people who come to Gibraltar and spend three years in Gibraltar trying to do a job but still thinking that they had the right to stop the progress of the people of Gibraltar by keeping us down. I am not in that ball game at all Mr Speaker, we are here to produce results and we are here to better the Gibraltarian image and we are here to better Gibraltar and we are here to create a strong economic base and do it our own way. The Land Reclamation has caused a wider situation, in fact, it has taken away the initiative of our dependence on the MOD to give us land when they thought they ought to. Therefore I have plenty of land to dispose of and to develop. I can take my time about what will happen to whatever land is released by the MOD, but also I think what it has done is that for the first time there is no need to be in conflict with the Heritage Trust and there is no need to be in conflict with the more extreme views expressed by some members in the conservation camp because we can now also feel a little bit more relaxed about the pressures of developing the old City. Because we can now look at a proper urban renewal programme and we can identify what is available in the old City so that we can retain the character and the heritage of the whole City and whatever we do in the old City will be done in consonance with the history and with the requirements of an old City. In my book the old City should be used for residence and not just for the business community to take over the old city as we were in danger of doing. So therefore the old City is for people to live in as well as for traders to trade in and the urban renewal programme which is now being looked at by the Government is part of the wider policies that this Government is pursuing but it is not the beginning and end of it all. In looking at land in Gibraltar we are also looking at trying to overcome the differences that are there, the impediments that are there and that is why we are talking about zoning Gibraltar. It is not a gimmick, Mr Speaker, it is trying to identify and that is why from my experience after two years in office, why I am not in a particular hurry to produce the City Plan because there are changes taking place and the last thing one wants to do is to change continuously. I want to go with something which we can look forward for the next ten years. But invariably if one looks at the land holdings in Gibraltar as they stand today we have a situation where there are widely mixed positions of residential and industrial holdings. So what we are endeavouring to do, as part of our reclamation, is to continue reclamation in the harbour to provide the new City concept which I have often mentioned as an extension of the old City of Gibraltar and most of our industrial based activities will be re-directed to the only place where, in such a small area as Gibraltar, we feel it is the best place to put it which is inside the old Naval Yard and therefore the Industrial Park concept is now very much a project and we intend to commence the Industrial Park towards the end of this summer. All our

cargo handling and all our warehousing, workshops and ancillary office base that is required by trade and commerce in Gibraltar will be directed to that area which would be our zone three. So we are beginning to see an emergence of a properly structured plan for Gibraltar. Of course, the question of the leisure activities and it is only natural that that we should be looking towards the East side of Gibraltar as a natural area where three of our main beaches are situated and that area is now earmarked.....

HON A J CANEPA:

Mr Speaker, three or one?

HON M A FEETHAM:

Mr Speaker, I have said three. I am going to make sure that the Hon Member has a very good beach this summer at Catalan Bay. So therefore we will be having our leisure activities in that area and plans are definitely in hand for this to take effect. So having therefore provided the House with the alternative plans that the Government are putting into effect as the alternative to the fine tuning policies that the AACR had in mind and we have gone out of our way to improve a number of things. For example our infrastructure which is very central to the improved environment for residents and also to meet our requirements and our commitments to development of Gibraltar. Mobilisation of this has just started this month and we have put into effect a substantial programme contract for the improvement of our infrastructure in Gibraltar. It is in fact the biggest investment in infrastructure that has taken place in the entire history of Gibraltar. The improvements are to our sewers, salt and potable water, etc. So when the Honourable Member opposite talks about the man in the street seeing improvements, Mr Speaker, I can say that the improvements to our infrastructure that is taking place goes a long way to meeting the aspirations of people in Gibraltar because there is going to be an enormous improvement in our road network as well, as a consequence of what is happening. Let me say that it is precisely because of the efforts that we are undertaking in providing land that some of our initial investments are coming back into the Government coffers as a result of the disposal of land which in itself provides us with the funding for improvements in our infrastructure. I am not going to provide a breakdown but it is included in the Estimates, the sum of £16m in Land Sales which is related to the Land Reclamation Programme. Members have seen the Estimates and that is a figure that can be used as an example of the way we are pushing forward and disposing of land and attracting investment and at the same time using some of the investment to re-invest in improving the situation. Of course, the Europort stands out as one of the major achievements because there are going to be others in the

reclamation area and in the concept of the new City that we are pushing ahead with. The Europort stands out because it has been the catalyst upon which we are going to be moving forward and has made it possible for a number of things in terms of our investment in the reclamation. It is public knowledge, Mr Speaker, that there is going to be 82,000 square metres of construction as a result of the Europort. It is said that why so much office space? Well that really depends on how one wants to look at the situation because it is no good trying to attract people into Gibraltar unless you have the infrastructure in place, including office and commercial space, and my approach to investors and clearly the same view has been taken by my colleagues is by telling them of the realities of the situation. We have not come to any agreement on the basis that we have to deliver anything which would compromise our political fundamental points which are at stake and everybody knows the realities of the situation. However, Mr Speaker, to say, as I have heard in this House and on television last night, that there is a danger of being taken over by neo-colonialists? Well, I think quite frankly that is taking things a bit too far. Where does the Leader of the Opposition imagine that we are going to raise the investment to create a new economic base in Gibraltar? From the ODA? That, Mr Speaker, is finished. From the British Government? That is finished. By increasing the taxation of the Gibraltarians? That is not on. From where does the Hon Member think? Well, let me tell the Hon Member one thing, Mr Speaker, that I am absolutely pleased and delighted that we are successful because at the end of the day it is Gibraltar that is going to be successful and if the Hon Member were on this side I would be equally delighted that they would actually be successful.

I am also delighted that money is coming from other places than from the traditional British market and I am delighted for a variety of reasons one being of not depending on the British market to boost our economy because it is bringing in a lot of competition. It is also bringing in a better return for the Government than the traditional British market and at the same time widening the awareness of Gibraltar internationally. It has brought an awful lot of spin offs and so as for accusing the Danes or anybody else of bringing into Gibraltar another kind of neo-colonialism I would say that I welcome them and I welcome anyone else who intend investing in Gibraltar and trying to assist us and at the same time getting a return. That must be so otherwise they would not put their money in Gibraltar. But at the same time let us be clear about one thing and that is the question of office space that is available in Gibraltar does not at all worry me. What worries me more is the time that my department has spent, and indeed other departments have spent, in looking at planning applications for a number of concepts within the City like conversions into office space or the refurbishment

of offices or the building of new office blocks, and then finding out by people ringing myself or other Ministers asking "Is it true that these people have planning permission for this because they have asked us to buy them out". So there has been a lot of situations where people have been using a policy in order to better themselves without actually even having an authority to do so, either for the landlord or for anybody else. These are some of the people who are criticising us for the fact that the Europort is going ahead and because I am turning down a number of planning applications in the old City. Not because of the Europort development but because it is not in keeping with the sound policy that one would like to have in Gibraltar. I am not here to protect the odd office space that is available in Gibraltar, like for example Leon House, because we are moving out because of the high rent, some other office space that may be available to someone else down the road or a new one that is built in a place which is deemed to be commercial. There are people wanting office space but are particular about the office space they want and they are prepared to wait and see and the question is where do we stop? We have to provide the office space and the other thing which I think nobody has bothered to raise, and I am wondering why, which is another central achievement on the part of this Government but nobody has bothered to mention, is the question of the Building Components Factory. Surely one cannot fail to notice that the factory is nearly completed and it has certainly been completed long before the nine months that I said it would take to complete the factory. Members opposite were all very cynical about the possibility but, Mr Speaker, the factory will be handed over to the owners, a joint venture company where the Government is a participant along with Holger Schultz and Volger. It will be handed over in June. By then all the equipment will be commissioned and the factory will be operational by August. It will provide the building components for the Construction Industry in Gibraltar and people have already been taken on and are training in the new skills. Comprehensive training for the Gibraltarians who have taken up these jobs is now being conducted at the Building Components Factory and more important is the concept of an expanding economy, as we have now, the question of bringing in labour from outside in a transitional stage does not arise because we do not have an unemployment problem, what we have is a problem of deployment and it is important that in an expanding economy that we do not flood the market with unnecessary labour and find that other people are not able to obtain a job. That is one of the questions that we have obviously given very serious thought to. The Building Components Factory apart from taking on Gibraltarians that are now being trained is also a very important integral part of not relying on labour from outside. I have said that in conventional construction, for example, the Europort which is due for completion in 1992 would not be completed until 1994. If it were not for the method of building components and because

if we were to be conventional we would have to have had an over dependence on imported labour. The Components Factory will mean that whilst in a normal situation you may have needed one hundred and fifty people on the site now you will only need forty. Therefore if we get those forty to be Gibraltarians well what we would actually be doing is having an integrated situation in Gibraltar where you can have components for the construction industry produced by the factory and being put together on site by Gibraltarians. Because we are not just training this group of Gibraltarians to be able to put building components together, what I am pleased to say is that these so called neo-colonialists have in fact, for the first time, made a major contribution to Gibraltarian training by agreeing, at their expense, to bring a training school from Denmark. The Construction Industry Training School is being run by the Danes with Gibraltarians being seconded so that they learn the training skills and carry on once the Danes leave. The programme of training is for twelve weeks and will provide Gibraltarians with these skills at their expense. That means, Mr Speaker, that we have something like forty Gibraltarians, who have started today in construction industry skills, because what is clear is that once the initial impact of the expansion has taken place, and we are talking about a period of ten years, then there will be a situation where there will be a reduction in labour. In a situation where we have filled the skills in the Construction Industry with Gibraltarians with the fallback position that we will have a construction industry in place run by Gibraltarians. That is what our policies are trying to pursue. Whether we are successful or not we do not know but at least we have put into place an alternative, a very well thought out alternative, to what we had in the past. Because Gibraltarians did not want to go into the Construction Industry and we are now trying to get them in. So Hon Members can see that we are trying to do everything possible to get the economy expanding, to get investment in, providing land for people to invest in and reaping the benefits of these investments. Let me say, Mr Speaker, that if we were to compare the investment committed to Gibraltar which has often been said by the Chief Minister, during the period 1984 to 1988 of the previous administration term of office, the total investment done by the private sector in Gibraltar was £15m, then we in the two years that we have been in office, in terms of construction, have already in place the committed investment of £150m. How that picture in terms of buildings emerge is that about 1,170 housing units are actually being built in Gibraltar. This of course includes Westside I. Westside II will come on course very very soon but is not included in these figures. Apart from the Europort and apart from the Building Components Factory a number of very important fundamental things are taking place. We therefore then take this thrust into the second area that is important and which is the marketing aspect of promoting Gibraltar. This is, of course, fundamentally important and one has to carefully considered, in fact, what is it that we are



going to be marketing? I do not believe that what is required is sectorial marketing. What I believe we must market is Gibraltar. Gibraltar is the focus selling point and therefore has to be the focus selling point in our marketing strategy. Gibraltar has got a lot to offer and it is in that strategy that we have to find what we are going to sell in terms of financial services, in terms of shipping, port, shiprepair, leisure industry and so on. But the policy has to be a concerted one. Gibraltar is not that big not to have a common policy in that marketing strategy and I have been giving this a great deal of thought and it will not be the policy of the Government, in response to Members opposite, that it will not be the responsibility of the Financial Services Commissioner to be introducing or pursuing our marketing strategy. The Commissioner whoever he may be will have a role to play in getting our supervisory structure in place and in achieving credibility with the regulations which are required to be put into place but the marketing strategy has to be something that is not going to be the responsibility of one single person. It is going to be a strategy that has to be by the very nature of the speed and urgency that we require in exploiting the potential of Gibraltar because we do have a tremendous potential, but if we are going to get that into place as quickly as possible in competition with everything else that is happening then we need to have the different sectors of Gibraltar working together in producing that plan and to centralise this through some sort of working party. I and other people in the community will be contributing to this and it is going to be a marketing strategy that is going to sell Gibraltar. Mr Speaker, what is it that we are looking for? If we take Financial Services, then I think we are competing with every other Finance Centre that exists and all the ones that want to be Finance Centres. We have a number of important things going for us in the sense that we are the only Finance Centre in the European Community. Some aspects of the Community will be out of it but we are certainly in the Community and there are important plus aspects there that need to be exploited and looked at which, I think, we have not looked at in the past and no doubt will begin to unfold as we proceed. Financial Services is a very wide statement in terms of banking for example there is a limit to what any Finance Centre can attract in terms of International household names. Primarily because Financial Centres have been so well established over so many years that the international policies of international household names are more or less settled and have been for many years but there is an awful lot in the banking world that could be attractive in Gibraltar. Smaller banks that are looking for particular places to sell their commodities? It is in that area of Financial Services that one has to do more to attract to Gibraltar, the smaller bank situation. Of course, Mr Speaker, one is always asking the question what is going to happen tomorrow? Well I am not saying that all our plans are going to be

successful but what I am saying is that we have pushed forward in a way that gives us an opportunity to be economically viable in Gibraltar. We are doing everything possible to ensure that that happens. Let me say quite frankly that in terms of skills, which is something very close to my heart, we are doing everything to ensure that Gibraltarians obtain those skills. Because at the end of the day one is not in politics, as some Members opposite have said, to change one's ideals because I consider myself, and as my colleague the Honourable Mr Pilcher has already said so, we consider ourselves to be a Gibraltar Socialist Labour Party and everything that we are doing is geared towards economic self sufficiency. So that in real terms the man in the street can judge whether he would have been better off with an AACR Government or with a GSLP Government which is providing an alternative to ensure that we have a reasonable standard of living compared with everybody else in Europe. That, Mr Speaker, is how the man in the street will measure things at the end of the four years. Government is moving very very quickly on the question of more computerisation and providing more computer skills and at the end of the day what is it that we are talking about? We are talking about 7,400 Gibraltarians that need to be economically active. In an economy which by the very nature has quite a lot of different facets because it is not possible to be able to provide the skills for every facet that forms the economy, that is impossible because there would not be enough Gibraltarians in place to do it. So we have to concentrate in areas where the changeover in skills is not so difficult because we have some basic knowledge of what is going to happen and within the Government services we are providing skills by better computerisation and improvement and bringing in more computers to do a lot of the work. A re-training on skills, apart from what is happening in the Construction Industry and which I have explained and indeed is also happening in some parts of the Private Sector. The private sector itself is also meeting the challenges of the Government in terms of training and a lot of companies are training people. Companies like Norwich, Barclays Bank and so on are doing an awful lot of training for their own particular requirements and in consultation with the Government. In many aspects of what they are doing it is within a general plan. That is the way that we are thrusting the economy, as far as the Government is concerned, whether at the end of the day we are going to have white elephants or not remains to be seen. We will have to wait and see. Clearly, Mr Speaker, the question of Air Communications is an important aspect and nobody is shying away from it. We are already well advanced in our planning of our future requirements. We have taken it as far as we are likely to be able to do, as a Government. Other things are now being discussed such as this study by the Foreign and Commonwealth Office. Why is it that it was said by the FCO representative I welcomed it? I do not think that I actually said that. What I did say was that whatever happens in terms of improvements to the Airport, whatever

happens, 80% or 85% of the growth will go to Spain. As indeed happens at the moment in relation to the figures that are coming to Gibraltar. The same sort of proportion is about correct and so whatever increase will happen will have a benefit for Gibraltar but the major part of the benefit will be re-directed towards Spain. Let me say that a lot of things have to be looked at carefully in terms of this expansion. Environmental problems, that the Honourable Member opposite is so "green" about and which with I entirely agree. One thing is to work on the policy of improving Air Communications for the betterment of Gibraltar and anybody else but another thing is for the Gibraltarians to take on their back all the problems arising out of the Airport Agreement which have not been taken into account. A lot of other factors which are so important, apart from the issue of whether it impedes on sovereignty or it does not, and therefore when things are rushed through and are not worked out carefully and thought through that is how obstacles do arise and which then need to be overcome. It is much more difficult if that obstacle is there than if that obstacle were not there at the beginning. So a lot of issues, irrespective of whether the present Airport Agreement or a new Agreement is put into place, an awful lot of issues need to be carefully thought out even before wider communications can take effect. Therefore from that point of view anybody in this House would welcome any form of study that will be able to identify everything that needs to be identified. That, Mr Speaker, is my position and I think that it needs to be looked at from that point of view. I have, Mr Speaker, a number of other things that I am responsible for and which I am just going to skip through because the situation has developed in such a way that I did not expect to because of the position that the Leader of the Opposition took. However, for information purposes let us say for example in respect of the Gibraltar coinage, which I think is a matter of interest to the House, that we now have over three million coins in circulation as of the 31st March 1990 with a face value of £860,000 and the Account therefore shows a surplus of nearly £600,000 as a result of introducing the coin in a matter of twelve months. Let me say that I believe in giving credit where credit is due and a lot has been said about the question of improvements to our infrastructure apart from everything that I have said we will be putting into effect that the man in the street has not seen and whilst I now have responsibility for some aspects of what was previously part of the Public Works Department nevertheless the improvements which I am just going to outline require that the credit, of course, be given to my colleague Minister for Government Services because most of it was done during his period in charge. Let me say first of all that during the last twelve months there has been a major resurfacing programme of our roads. I think Hon Members must have all seen this, there is no question of discarding it but let me just repeat the roads that were involved in case some Members opposite have forgotten. Winston Churchill Avenue, east bound lane south of the roundabout and south

bound lane north were completely done. Hospital Ramp, Governor's Street, Secretary's Lane, South Pavilion Road, Tarik Road, Cumberland Road, Devil's Tower Road, Line Wall Road, Tankerville Road, Witham's Road, Scud Hill, Main Street from Casemates to King's Street, Rosia Road, New Mole Parade, Waterport Roundabout, Sundial Roundabout, all Queens Road and part of Moorish Castle Estate, Mr Speaker, compared to the sort of Road Programme that Gibraltar was used to in the past I would say that it is not a bad Resurfacing Programme in a period of the twelve months. The Honourable Member Mr Ken Anthony has made a lot about the question of the beaches and of course the Government were anxious this year to do the best it could about improvements to our beaches. However nobody expected the misfortune that we had, and people must recognise this. This winter we did not just have one gale situation but three which seriously impeded all the efforts that the Government had put into place. However, let me say that despite this, and credit must go to the commitment of the labour force, for the way that they rallied round to insure that our beaches provided adequate facilities for the people of Gibraltar. All our beaches are going to be opened, including Little Bay and Camp Bay, Little Bay and Camp Bay, of course, partly because of the efforts of our labour force and partly because of the cooperation that was put in place by the Government with the Ministry of Defence and particular credit goes to the Royal Engineers in assisting us in making Little Bay safe for the public to be able to enjoy the swimming facilities. So I can say now that Little Bay will be opened. Of course there will be slight restrictions as to where people can actually go in terms of the road and so on. This will be made known publicly well in advance of the official opening date. So therefore all our beaches will be open to the public with improved conditions compared to what existed last year despite the enormous problems that we have had to face and of course with something like one hundred thousand cubic metres of fresh sand. This must be a welcome thing for people that love to go to our beaches. So Mr Speaker, all in all the Government are producing the results and in the two years that we have been in office every Minister here has demonstrated that there have been improvements all the way through but within a concerted Economic Plan. Time will tell whether it works or it will not work although I believe that it will. I believe that the business will come in which will be part of our next two year programme to ensure that that happens and therefore I am satisfied that nothing better could be done. Two points that need to be answered, as far as Mr Britto is concerned, one is the question of the pool. When we came into office, Mr Speaker, the commitment that there was for the swimming pool for GASA. That Gibraltar Homes would have to reprovide GASA with a swimming pool in the redevelopment or after the redevelopment of the Westside Scheme. There was also a commitment to Calpe, perhaps because Calpe are more of an influential body they did obtain from Gibraltar

Homes a temporary pool for their own use as a result of losing their swimming facilities at the Basin. Both were losing the Basin, Mr Speaker, but one got a commitment of a pool straightaway and the other one in the future. Of course when that came to the knowledge of the Government there was no way that this Government was going to accept that Calpe, and it is not because we are anti Calpe, but because it was a question of principle and morality. Both sets of people were affected but one was more influential than the other so one was getting the pool straightaway and the other one in the future. But the pool that was built for Calpe is now the pool that is going to be given to GASA, by agreement with all the parties concerned. So GASA are getting their pool straightaway and another little pool has been built for Calpe within their own boundaries. Let me say that I have received complete cooperation from all the parties and I am just outlining the principles of the case. The very nature of the way the construction took place and so on has meant that one pool has been handed over last week by the developer and the other one the wall is being finished and will be handed over soon. However the realities are that both of them are getting their pool. That was not the commitment that was there.

HON A J CANEPA:

Who is the Honourable Member talking about?

HON M A FEETHAM:

Gibraltar Homes as a result of the discussions which took place with your administration had agreed....

HON A J CANEPA:

No, no that is not true Mr Speaker.

HON M A FEETHAM:

Mr Speaker, the previous administration agreed to reprovide GASA with a swimming pool as a result of the loss of the waterfront.

HON A J CANEPA:

But not Calpe, Mr Speaker.

HON M A FEETHAM:

No Calpe no, of course, Mr Speaker, but of course Calpe, as I have said, are fairly influential and they do not need the Government to do anything for them. They arranged things directly with Gibraltar Homes. They said "I am losing my waterfront and I want a pool straightaway". The position was that you agreed that Gibraltar Homes should reprovide GASA with a swimming pool.

HON A J CANEPA:

To reprovide GASA with a swimming pool.

MR SPEAKER:

Order, order, order. You must address the Chair. Members must not start talking across the floor.

HON M A FEETHAM:

The key here is that that was going to happen in the future. So what happens as a result of Westside I starting the filling in of the Basin and we find a situation where all of a sudden a swimming pool begins to appear for Calpe and GASA start saying "where is my swimming pool?". Of course it is only natural that that would have happened and that was the time when we realised that something was terribly wrong and that things were not tied down the way they should have been tied down. Like all the other things that we are finding out that they are not tied down. Their attitude was "Let somebody else solve the problem". Like for example finding a place for the boats at Camber in Queensway and which had no place for and yet they had disposed of the land and left the problem for us to resolve. The realities are that there was no way, Mr Speaker, that we were going to tolerate the situation that Calpe should have the swimming pool, and they understood the problem when it was explained, and GASA should not. The result is that both of them now have a swimming pool. GASA will have their swimming pool, their final product, when the re-development of Westside and the construction has taken place. So please before you start asking me to respond as to why GASA has not got the pool yet or is not yet completed please to find out the facts and the realities. GASA have a pool now because of the efforts of the Government's intervention and they will have a final pool when it is completed. That is a temporary pool but at least they have bathing facilities. The other final point is the question of the beautiful house down the road and why planning permission was given so that it is being used for office space. I could not agree more with the Leader of the Opposition but the property that the Member opposite is talking about is in fact a temporary change of use because the very same people who have bought that property are in fact incidentally investors that we have brought into Gibraltar and have paid, as I understand, a substantial price for that property. They are in fact going into Europort because they are involved in Europort and are investors in Europort and that will then change back into residential property. That is their intention. They bought it with that in mind and they were not going to tie themselves up to a contractual obligation of three years of office space when in eighteen months we will have completed the Europort for which they are part of the investment group. That is the answer to that one, Mr Speaker.

MR SPEAKER:

The House will now recess for twenty minutes.

The House recessed at 5.10 pm

The House resumed at 5.30 pm

HON CHIEF MINISTER:

Mr Speaker, having listened to the two reactions from the Opposition benches to the presentation of the Estimates of Expenditure and indeed to my opening analysis of the performance of the economy in the first twelve months of the GSLP Government, I have to say that I have difficulty in understanding the reactions and the views of the AACR Opposition. Let me say that the Leader of the Opposition knows that I have a great deal of feeling and friendship for him and if he will allow me to give him friendly advice I would say that he should not even contemplate going to an election in 1992 on the kind of platform that he explained in his contribution today because that if he were to do that not only would it not be a recipe for winning the election, I think, he would be totally wiped out. Because it is a totally idiotic analysis, I regret to say, to attempt to say to people in Gibraltar, to the electorate "if the AACR were in Government today or if the AACR got in Government in 1992 they would borrow less and they would aim consequently for a lower rate of growth". The Hon Member recognises that it requires high borrowing and they would increase the Civil Service back to what it was because he is against the cuts. They would also reduce taxation and at the same time they would avoid becoming totally bankrupt in the process. I do not know what magic formula the Hon Member has discovered since they lost the election on the 25 March 1988, but certainly it was not a formula that was in their possession beforehand otherwise we would not have inherited the situation that we inherited when we took office. The facts of the matter are that they need the 600 Civil Servants. That is the truth. They could not have governed badly as they were governing, Mr Speaker, without an army of Civil Servants. They did not believe we could do it during the Election Campaign because I remember the Honourable Member opposite in the last few months of the previous House of Assembly giving me friendly advice and telling me that if I thought I would be able to do all the things without having to rely totally on the top echelon of the Civil Service then he was saying to me I was going to be in for a very nasty shock if I was elected. That, Mr Speaker, was the friendly advice that he was giving me and the analysis that it could not be done is in fact the reflection of what they perceive today that they themselves would not know how to govern Gibraltar without the bureaucratic system that they have always known. This is why Mr Mascarenhas says that if you do a Feasibility Study it means nothing will happen for four years and I know because I have been in Government, of course, and that is the way it used to

be when he was in Government. That is no longer the case because if we had to wait four years for a reply and a Feasibility Study we kick somebody's backside and do not wait four years. That is the difference. We get things done quicker. What is in fact, Mr Speaker, the point of trying to explain things in the House, we might as well be talking to a brick wall because I recognise, of course, that the explanations that I gave were not the explanations solicited by the AACR. These explanations were asked by the Honourable Mr Montegriffo and I told him in answer to the question that the information was not available and I have had the Government Statistician in his department working very hard to produce as much information as was possible in the time that was available before this Meeting. The information was not there, Mr Speaker. It was not a question of pushing a button in a computer. It all had to be compiled in order to try and give people opposite an indication of the state of the economy which I would have thought they would be interested in since they are always complaining that they do not get any information and when they get it they make no use of it or they simply say what they intended to say as if they do not really care about the truth. Perhaps it has all gone over their heads and they could not follow it. It is one or the other, Mr Speaker. The situation is that the Hon Mr Canepa says: "when are we going to see the reflection in living standards of the economic growth that we are saying is taking place?". Well, why does he want the Government to make the effort of providing the Employment Survey for this House of Assembly which he asked me to do in the last House? He said "could we have the Employment Survey for the Budget Session"? And I said "It is not quite ready. However if it is not ready we will provide you with a summary but we will push the Department to have it ready". We pushed them and we had it ready, and we let him have it but it appears that he has not bothered to read it, because if he had bothered to read it he would have read in the Employment Survey that average earnings after cuts and after inflation, for the average Gibraltarian worker went up 8.7% in twelve months. The highest increase in take-home pay and in the standard of living in Gibraltar since parity. The Hon Member had the answer. Is it, Mr Speaker, that he does not want to have the answer or that he asked for the Survey in order to be able to say that we do not provide him with information? However once he has the Survey he is not interested in having the information because otherwise he would not be saying "when are we going to see it?" Well, there it is. I can tell the Honourable Member that I have no way of knowing to what extent the development that is taking place and the growth in employment that is taking place which, we know is taking place, was filtering through in earnings and in take-home pay until I saw the Survey. I had not seen the Survey until a month or three weeks ago. So it was not that I had the information much earlier than he did. I had, of course, an indication that there must be an increase in the standard of living because, as I have said before,

in my introductory remarks we are fortunate in Gibraltar, in looking at economic variables, that if we say the economy has grown by 9% or 10% in our first year, then we say to ourselves "well is this in fact reflected in earnings and take-home pay?. Is this reflected in retail sales and in import figures?" Because in a small economy like ours there has to be some correlation between different statistics for different sources and if one set of statistics indicates growth and all the others indicate decline then you know that somewhere along the line there has been a mistake and that they cannot all be right. Either one set must be right or the other set must be right. Therefore when we have a situation, Mr Speaker, where Honourable Members opposite simply pick a figure and say "people are paying 25% more tax than they were last year". Well, Mr Speaker, that is nonsense. It is not true that people are paying 25% more tax than when Members opposite lost the election. What is true is, as the Employment Survey shows, that there are 1,000 more people paying tax, that is true and it is true, Mr Speaker, that average earnings and the overtime levels in that year were very high and that is reflected in the tax collected. It is also true that we have been better at collecting tax than they were, that is also true. So there are really three elements as to why the taxing was higher. One was a better collection of the backlog of taxes, a greater number of taxpayers and a higher average wage. But, of course, what is not true is that that has resulted in a surplus which we can give away. What is also not true is that we are doing anything today that I did not tell the House in April 1988 when we got elected. What we are certainly not going to do, Mr Speaker, is what the Member opposite was doing in 1987/1988, in 1986/1987 and in 1985/1986, which was to borrow for Recurrent Expenditure. Not in one year as he said in a television interview yesterday but for three consecutive years and, of course, I can tell the Honourable Member and anybody else without being an economist, knows, a child knows, that I could transform the deficit we are projecting this year of £4.6m into a £5m surplus just like that. All I need to do is to borrow £10m and show the £10m as Recurrent Revenue and suddenly my deficit disappears and I have a £5m surplus and I am very successful at running the economy and I can afford to give goodies. That is not giving goodies, Mr Speaker, that is giving people a false sense of security and we are not doing the Gibraltar any good, by giving them a false security. So we have to say to people that they have to live in the real world and if the AACR and the Leader of the Opposition is hoping to get back into Government by trying to say to people that the AACR can guarantee them perpetual life in limbo, where the realities of life do not matter, then good luck to them. If that is what Gibraltar wants they are welcome to have the AACR back anytime they want but the real world will still be there and will catch up, just like we are having now to put right the catching up of sixteen years. Because, frankly, the AACR was not prepared to face a situation where we would have to live

by our own wits in the real world because of the sustain and support policy, of ODA money and MOD money, was going to run out and the writing was on the wall. Of course, the strange situation this year is, Mr Speaker, that a year ago when I stood up to exercise my right of reply to the Appropriation Bill, immediately after the Honourable Mr Montegriffo had spoken, I said "the House has just been presented with two different views by two different parties". I was a step ahead of the Leader of the Opposition who did not know it yet and I have been proved right in that particular prediction, maybe all my other predictions and all my foresight maybe wrong but on that one I was right. But what is even stranger this year, Mr Speaker, is that last year where the AACR was taking a, shall we say, an understanding position of the economic situation and the Honourable Mr Montegriffo took a very negative position and talked about civil servants being slaughtered or being butchered, we suddenly find that all the Members of the AACR this year have stolen his cloak from last year. It is as if they have read his speech and they have all decided they were going to take the line that he had taken last year before he spoke and then of course he out-witted them again and said something totally different. The one Member, in fact, this year from the shrinking AACR camp that has taken a different line from the rest has been the Honourable Mr Featherstone, I do not know whether that is an indicator of a further split and a new party in the offing but I will not commit myself to that particular prediction at this stage. I think he has decided he has had enough of politics to start with a fresh party at this time in his political career. But, of course, he was arguing that in fact the situation was not as the figures suggest because there was a great deal of underestimation. I can tell the Honourable Member that, as far as we are concerned, these are realistic Estimates in some cases, for example, like Stamp Duty, we know that there were certain large transactions which took place this year which is the reason why in fact this year the actual outturn was something like £1m more than we had budgetted for a year ago and we do not expect that to be happening every year. So if anything in fact, for example, the £1½m that we have put for Stamp Duty as opposed to £1.9m, maybe over-optimistic rather than conservative because last year we put £900,000 and we had £1m coming in more than we anticipated and we do not anticipate that to happen again this year. Most of this is related to the size of companies that come into the registration on the Company Registry. Because it is a Stamp Duty based on the share capital. There is also a situation where we have a number of factors looking at the PAYE and Company Tax receipts for the next twelve months. One is, that we expect a much bigger take up of the household home-ownership allowance, the £10,000 allowance, because of the coming into operation of the signing of the contracts for Westside II which will run into several millions of pounds of Tax Rebates. We have also got a situation where we are



computerising the Income Tax Department who are, at this stage, still manually doing the assessments for 1986/1987 and we are hoping as a result of the computerisation to actually be able to do the assessments by computer and do 1987/1988 and 1988/1989 which means that people will get any refunds that much quicker. As the Member knows from having been in Government for many years if you have a number of possible scenarios it is not a prudent policy to vote for the more optimistic scenario and find yourself short of money during the year but it is better in fact to be in the comfortable position, as a Government, of budgetting for revenue yields which you are fairly certain on the worst possible scenario you will get, because the commitments on the expenditure side are unavoidable. The Government expenditure is two thirds salaries and wages and there there is nothing that you can do about it. But is it in fact, Mr Speaker, the case not as the Honourable Mr Featherstone believes that we have a lot of money and that I am a scrooge who does not want to part with it or as the Leader of the Opposition believes that we are taking a very high risk by borrowing for Capital Investment as a basis for promoting growth. Well all I can say is that he has not bothered to look at the charts that I had prepared and which I distributed at the beginning of my contribution because he would have seen how insignificant even after the major increase of the Improvement and Development Fund, how insignificant a part of the economy the element of Government domestic capital formation is. In the charts that I have provided, Mr Speaker, I pointed out that the purple line which is Gross Domestic Capital Formation, the Improvement and Development Fund had been stagnating until 1987/1988 on a slightly declining trend and that there had been a very marked increase between 1987/1988 and 1988/1989 a doubling of it. But even then it is still barely noticeable on the chart, it is more or less insignificant economic growth. Now can the Member seriously look at that and say that the increase which we are bringing about and which is being financed by borrowing and which is this pushing infrastructure, this speck at the bottom of the chart is responsible for this growth at the top of the chart. How can he say that. Does the Hon Member understand what we have put in front of him? It is obvious that it cannot be because the reality of it is that we expect it to be an important contribution in the level of economic activity but it is not the predominant contribution. The main reason for the investment in infrastructure is not in order to produce the predicted rates of economic growth but to produce, as the Honourable Mr Montegriffo correctly identified, the quality of services, telephones, roads, buildings, sewers, water supply, electricity, that people would expect to find if and when they come and whether they will come in the numbers that we want them to come still has to be tested. However they will not come without the infrastructure being there that is guaranteed. The Honourable Mr Montegriffo mentioned that part of my visiting other places was selling and part of my visiting was learning and he is right. On the learning and the fact

finding side I have gone to see in Malta where Members opposite have just come from and what I have gone and seen in Madeira shows us that in fact their biggest handicap is the breakdown in their telephone system, the holes in their roads and these are the things that quite apart from anything else anybody on the other side of the House that is involved in business knows that it is a fact of life that people do not like doing business from a place that does not look upmarket because it is difficult to attract up market customers to such a place because they say if they cannot even keep their place going then how safe am I to put my money there. There may be no real connection and one phrase that we all know that the successful conmen are successful conmen precisely because they package themselves so well that nobody bothers to look at the small print. But the reality is that Gibraltar in order to develop, as we want it to develop, and to achieve the levels of selfsufficiency that we want to have and that we believe it can have must have a major facelift and that we have no choice in that matter and that we are stretched to the limit of our resources in achieving that. It is not that the economy is dangerously overgeared, it is not that the economy is in danger of overheating, it is not that the economy is taking a big gamble, it is that the Government does not have the resources to take on the task that it has to take on and that if it does not take on the task then the kind of future which would frankly resolve the problems of any Government, because the money will then start coming in as it tends to do in Jersey and Guernsey and other places that have made that kind of successful transformation from a previous type of economy. The Channel Islands at one stage were predominantly agricultural and the big chunk of their national product was exporting milk, tomatoes and potatoes to the United Kingdom. Today in Jersey they collect £200m a year in tax, not £25m or £30m but £200m. Of course they can afford to have 20%, they can afford to have 30% because they have surpluses and reserves. The Isle of Man has moved from reserves of something like £14m to something like £60m in a matter of four or five years. We are in a situation where we have to keep on running to stay in the same place. Now in that kind of situation, as the Honourable Mr Montegriffo deduced, we are having to take a tough line and push people harder in the transformation and the restructuring of the Civil Service that we would otherwise do if we had more time to breath. Mr Britto tells us that we are slaughtering or butchering Civil Servants, Mr Speaker, but I think the slaughtering, if I remember from my days as a Health Inspector, the slaughtering bit comes first and the butchering is the second stage. I would remind Members of the answers I gave to Question No.88 of 1990 put by the Honourable Mr Ken Anthony, when he asked me "What is going to happen to the four hundred people that are surplus?". And I said "Everyone of those four hundred is guaranteed a job for life". In fact, if I may remind Members of the Opposition that in 1987/1988, in the last year of the administration of the AACR Government, the



number of Civil Servants in the Administrative Grades, which is the six hundred that we are talking about, was five hundred and ninety three. In our first year, if Members go back to the Estimates of Expenditure for 1988/1989, our first Budget which had already been agreed it went up to six hundred and eleven. We actually managed to stop the bus at the end of 1989. In 1989/1990 we managed to bring it back to five hundred and eighty five. The butchering and the slaughtering and the massacre has so far produced a decline of eight people, that, Mr Speaker, is what we are talking about. Now obviously we still have a considerable way to go and in this year's Estimates the figure provided under Personal Emoluments the complement is five hundred and thirty, so this year we are down by a further fifty five but still a long way from the two hundred odd and the situation is that we are, as I have mentioned earlier, not seeing an immediate reflexion of the savings as a result of these changes in structure because in fact we are introducing, and have introduced, amendments to the Pensions Ordinance in order to make it attractive for people to volunteer to go. That, Mr Speaker, is the humane and socialistic way in which to do things. If I was a Thatcherite I would make them all redundant. In any case I do not think Mrs Thatcher, Mr Speaker, would be very grateful to the Leader of the Opposition if she thought that he thought that she borrowed money in order to create high rates of growth which is something which is taboo to her. So in fact the policy that we are carrying out is a policy which of necessity is required because Gibraltar cannot afford the size of public administration that has been created in the past and must make do with a leaner, more efficient and more productive outfit. In fact our calculations are taking, for example, the relationship of GDP to working population that according to the figures for our first year of Government we have achieved a rate of capacity in terms of output per man of 80% of UK, comparing us with the national average in UK and UK is considered to be pretty bad by European Community standards. It is considered to be more towards the bottom half of the league than of the top half of the league. It is not bracketted with Germany, Holland and Denmark, it is bracketted with Greece, Spain and Portugal and we are 80% of their ratio. Admittedly there is a problem in a place of small size like ours where we do not have manufacturing industry which is relatively easy to automate. For example, the Building Components Factory which my colleague the Minister for Trade and Industry gave details about will be producing a lot of building components for a lot of buildings with forty odd people but you cannot do the same when you are running offices or when you are running shops which are more labour intensive service industries. However much of our banking institutions today are moving more and more into highly automated offices which means that they will be able to do more and more work with relatively speaking less staff and we as a Government must move down that road as well. Let me say, Mr Speaker, that in fact

the figure of two hundred as the target for the public administration is not something which we have sprung on people out of the blue. It is something that I told the GGCA Committee more than eighteen months ago when they were having regular meetings with me as well as at the General Meeting that they organised for me. In fact it is something that the Leader of the Opposition was aware of because he mentioned it last year. He said last year in the television programme in which he took part with me that the movement of six hundred to two hundred was something that would create a lot of problems and what were people going to be doing and so forth. So already the figure of two hundred was something that he was aware of last year. He said what was I going to do tell the four hundred of them "you are going to have to find jobs in the Joint Venture Companies", that is what he said on television a year ago, so it was not new to him this year, never mind to anybody else. Of course people resisted, but what they are resisting is the fact what they were led to believe by the previous Government that there was a guaranteed job for life with a guaranteed promotion provided you sat on a conveyor belt long enough for your turn to come. If he is asking me as he did, Mr Speaker, what would I tell a twenty five year old who has already been seven years in the Civil Service and joined at the age of eighteen then I would tell him what I did at the age of eighteen and what I was doing at the age of twenty five and I would tell him that if he wants to be successful, dynamic, committed to our community and proud of our homeland and of our home and not depending on anybody, then in fact you do not join the Civil Service at eighteen and expect to retire at fifty five with a gold watch and thirty three and a third years of service because that is not dynamism and that is not what we have to offer our people. One may well say "I came in as a Clerical Assistant at the age of eighteen and if I wait long enough either people in front of me will die off or will be retired or something and eventually it will be my turn to get there". The Honourable Member knows from the time that he was in Government how rigid the structure from moving people is and how for years in fact the argument that was used of bringing in people who were high fliers with extra qualifications to jump over was resisted and stopped and never got anywhere. Instead of bringing the high flier in we are taking the work out and giving it to the high flier outside and that solves the problem and that is the difference. The difference is that instead of spending the next twenty years trying to persuade the people to remove the barrier we circumvent it and get things done. That is why we are moving at a pace that they thought was impossible. The situation therefore is that the movement in the Improvement and Development Fund is not a big gamble, it is something that is essential for Gibraltar's development and something that in the past the Leader of the Opposition, as Minister for Economic Development, has himself advocated and in fact again, if I quote him last year on television with me looking at last year's Budget where the same strategy

was being defended by the Government his reaction was to say that "I remember the the benefit to the economy in 1981/1982 when we were able to spend £10m, it was mostly ODA money, £10m one year and £10½m another year in the Improvement and Development Fund. I will not quarrel with the strategy of borrowing £50m which is what I have borrowing powers to borrow over the next term of office and putting that into the Improvement and Development Fund for Capital Development in Gibraltar. I do not quarrel with that strategy at all". That was the Leader of the Opposition twelve months ago on television. Well why is he quarrelling with me today if he did not quarrel last year? Because last year, Mr Montegriffo quarrelled with me, that is the only thing that has changed and this year he has decided to quarrel with me and therefore this year Mr Montegriffo does not quarrel with me. Well obviously one of them insists on quarrelling with me whether I like it or not and they should not quarrel with me they should quarrel with each other. So it is a sensible policy and in fact the chart that I had produced by our people in the Economic and Statistics Department, Mr Speaker, shows the impact in 1981/1982 to which the Member referred, the purple line, which we are showing increasing this year is not making even now as big a contribution to the economy as it did in 1981/1982 when he was the Minister for Economic Development and he was defending that policy. If he looks at the proportion of the national economy in 1981/1982 by superimposing the trend line on the chart for that year he will see how much more substantial that is of that bar than what we are doing today. Let me say that we hope to be making a much bigger contribution than we have done so far but that it will take some time before we reach the proportions of stimulating economic growth by borrowing and spending money in the Improvement and Development Fund that he managed to do in 1981/1982. So in fact at next year's budget he can switch tactic entirely and say that this is not our idea at all because he thought of it in 1981/1982. This is something else that he can claim credit for. Mr Speaker, the position of the Government continues to be that we do not intend to make any changes in the tax system before 1992. We said in 1988 that we hoped to bring about a major increase in expenditure on infrastructure with the existing taxes, that is what we set ourselves out to do and I said in my opening remarks and in my recent report to our people on television that we could continue to do this on present trends of income and spending for another eighteen months. After eighteen months either we have to re-trench or we would have to tax more and we do not intend to do either of those two. So therefore the only alternative left to us is that we must accelerate the restructuring programme and it is not that we are forced to go down that road as the Honourable Mr Montegriffo was suggesting because we are under enormous pressure. We are under enormous pressure but the reality of it is that the structuring exercise is going very very very slowly. It is not that it is going at a normal speed and we want to put it into

high gear, it is that it is going very very slowly. The situation is that where we have had a major impact is in the higher levels. For example at the level of Senior Executive Officers we have made quite a dramatic impact. In 1987/1988 the last year of the previous administration there were twenty-one posts as Senior Executive Officer, in this year's Estimates there are eight. We have gone from twenty-one to eight, but when you go further down the line there were fifty eight HEOs and there are now forty eight, there were eighty nine EOs and there are now eighty, there were two hundred and eighty two AOs and there are now two hundred and fifty four, so in fact in terms of savings of course since we have saved proportionately more jobs at the top than at the bottom we have probably cut our wage bill by about £½m, even though we are talking about few in numbers, but the release of manpower and what we sought to do really is predominantly to halt recruitment into the Government service and I can tell Members opposite that of all the things that the Government is doing to try and provide support and encouragement and back-up for the development of the private sector and the development of the Financial Services industry what the people in the Financial Services industry tell me is the best thing we have done is stop competing with them for labour because they used to say the problem they had was that many people felt that even though we might be paying more, an easier life in Government Secretariat was more attractive, and the fact that we are no longer in the market buying labour has made life better and easier for them because now we are not competing with each other to recruit people. So the Government has removed its demand from the labour market and the result is not unemployment, the result is an increasing proportion of Gibraltarians in the private sector which is what we want and which is what we need and we are not going to promise people anything different. This is not arrogance, it is not dictatorship, it is not lack of democracy, it is political honesty. We are not going to tell people what they want to hear, we are going to tell people what we honestly believe is fundamental and essential for their survival because it is our survival as well. This is our Gibraltar the same as it is that of members of the Opposition and of the rest of the population. We like the rest are tax payers the same as members opposite. We want a higher standard of living, so it is not that we are doing this for any ulterior motive, we are doing it because we honestly believe that this is the way forward. We are willing to listen and I think the position that was taken by the Honourable member opposite, since he has occupied the seat that I used to have in the Opposition has become much more sensible, it must have something to do with my previous experience in that area of the House. I think the reaction that the Hon Member has put today to the Estimates and to the figures that we have put was in fact to try and question it, not on the basis of seeking to minimise what we are trying to do or failing to understand it but asking, as it is his right to ask and the right of any other citizen,

whether in fact we might not be making some mistakes whilst we are on the road and we welcome that because there could be things where we have missed something out because of the pressure of work, because of the things that we are trying to do within the time that we are trying to do them and therefore if somebody asks us to take a second look at something we are prepared to do it. The situation is for example that he wanted to know whether the figures that we have produced on the new calculations of GDP, what is the effect of changing those figures with retrospective impact. Well it does not really alter the picture because the reality of it is that it produces a more realistic picture but if we look at the expenditure GDP as it was calculated before which is without the MOD and based on expenditure rather than income it means that subject to the fluctuations brought by movements of people in and out of an open frontier then we will see that the GDP jumped up and down but that if we take a long enough period of four or five years the effect of growth over those four or five years is virtually unchanged except that it is from a higher level. So in a way what we have done for ourselves is make the achievement of the target we announced more difficult because obviously if I say we are going to generate an extra £25m of economic activity in Gibraltar and the GDP that we have inherited was £150m which is a new figure as opposed to £114m which was the previous calculation then of course the £25m is a lower percentage of £150m than it was of £114m. Nevertheless the advise that we got, and let me say that it was not as I pointed out earlier, it was not a question that we looked at it now, we looked at it and I announced that we were going to look at it in last year's Budget and we had Mr Harry Fell in October last year looking at this. It is just that it has taken this much time to go back and recalculate virtually fourteen years of estimation. But the position is the same one, that is to say, we have not used anything that was not already there because obviously you cannot go back to 1975/1976 and find out what people were earning then or what people were spending then, it is just that it has been put together in a way which we are advised is technically superior as a measurement of the real world than the way it was being put together, but the figure there is the only one that there is and the accuracy of that we cannot vouch for. We were not there when it was collected and therefore it is as good as the system of collection was. The Honourable Mr Montegriffo also, when looking at the joint ventures, was questioning whether in fact we were going into competition with the business world. The reality of it is that as we clearly demonstrated at the time, we were talking predominantly of restructuring GSL and virtually the people who are in all the joint ventures are the people who were formerly in GSL and that is why GSL now employs one hundred and fifty people whilst they used to employ six hundred people and we have not made anybody redundant and we have been asked in this House whether we stand by that commitment, not to make people redundant and we

said "we are not guaranteeing them a job for life but we are guaranteeing them that if they cannot make a go of repairing ships we will find them alternative work". We will not put them on the dole but we do not keep them repairing ships at a loss because that is not good for Gibraltar and it is not good for them and that can only end at some time in the future in the decision having to be taken to close and therefore the commitment is that after June we will assess the situation and we will see whether there is a future for a shiprepair yard employing one hundred and fifty people or there is not one and something else can be found as a way forward. The position, of course, in looking at the areas such as the contribution made by the Government to the Health Authority, Mr Speaker, where the Honourable Member opposite was saying he does not have the level of information and the accountability that he would expect. Let me say that the Audited Accounts for the Medical Department are no different from the forecast outturn or the actual expenditure shown in the Estimates for the rest of Government spending. They contain the same amount of detailed information no more and no less. They have been prepared exactly the same as any other Government department has been prepared. The second thing is that if the Hon Member looks, in fact, at the Treasury Vote where the contribution to the Health Authority is, he will see that although we are talking about a more substantial sum, not £8m as he thought but £6.8m. There is also a contribution to GBC, a contribution to the John Mackintosh Homes and a contribution to John Mackintosh Hall. All of which have been done in exactly the same way so it is not an innovation that we have introduced but we have simply followed the system that was there and the Estimates follow the pattern that they have followed since time immemorial. If the Hon Member goes back before 1988, he will find that this is not being less accountable than any other Government and depriving the House of some powers that it had before, it is how it has always been done. It was done like this in the sixteen years that I was sitting in the other side of the House.

HON P C MONTEGRIFFO:

Mr Speaker, I understand that the mechanics are the same in terms of the way the contributions to the Health Authority now appear in the Subventions Head but surely that is not the distinction, I will explain what I mean. The distinction is that the information that we are getting is a year and a half old as opposed to the projection which have been forecast as outturn the very year after the spending takes place and, of course, one has the Estimates. That, Mr Speaker, is the point that I was trying to make and from the point of view of the fact that other bodies like the GBC and Mackintosh Hall have been treated in this I accept, Mr Speaker, but is there not a distinction that should be drawn between something like GBC and John Mackintosh Hall that are clearly not public utilities or clearly not public services which Government is directly responsible for? I mean Mackintosh

Hall technically the Government is not responsible for it in a strict legal sense and as for GBC they are only responsible for the subsidy. Is the Chief Minister not prepared to accept that there is a distinction between the accountability that one could expect in terms of spending on Health Authority or say tomorrow if we were to have a Water or Electricity Authority? Or if the Development Corporation were to take it over? Is there not a distinction between that and spending on GBC?

HON CHIEF MINISTER:

No, Mr Speaker, because in fact the accountability, as far as I am concerned, is the accountability for explaining what it is that the House is being asked to vote money for. Therefore if I say to the Honourable Member "vote in favour of giving £570,000 to GBC" he does not ask me "how is the £570,000 going to be spent?" And I do not see what is the difference between giving it to GBC or giving it to the Health Authority or giving it to anybody else, because that is where the accountability comes in, in getting somebody to say "before I vote for that money I want to know how it is going to be spent" which is the way we vote it when it was direct Government expenditure. The position of the Government, and let me make this clear, is that in removing areas of activity particularly trading activities from the province of the Government we are doing two things. We are, on the one hand, setting up those trading activities outside the constraints of the Civil Service rules, which were never designed for those activities. I think part of the problem of loss of efficiency, and I know that there were members including the then Chief Minister, Sir Joshua Hassan, who also felt that the amalgamation of the City Council and the incorporation of the Civil Service into the accounting system of Government brought a decline in standards of efficiency and standards of control because in fact the methodology was different and therefore what you had was a situation where you were trying to use a system copied from Whitehall to run a water plant or run an electricity plant. If you look then at the gradings, and the structures and at the machinery of how to vote money and how to get approval to spend money then that is not the way you react if something breaks down and you need to repair it. So we feel that in those areas if it is possible to have them free standing there will be an improvement in the quality of the service that is provided to the consumers and that really it is to the consumers that we should be accountable to. I think we have to get away from the situation where when we are talking about public spending and we are talking about public money, we have to identify what is the role of the Government in governing and what is the role of the landlord, the role of a seller of electricity, the role of a seller of water which can be public or privately owned, and that is a separate issue, but whether it is public or privately owned what you do not do is have a situation where the Council of Ministers

decides how to run a water utility or how to run an electricity utility or how to run a telephone system because that is not what the machinery of Government is for. Obviously it is much easier to find a partner in an area like Telecommunications where there is clearly a profitable future than to get anybody to do it in areas where the prospects of running a commercial venture are not so great. We will however look at any proposals and, in fact, are doing that. My colleague the Minister for Government Services is looking at proposals being put on the water side and if we are able to find a satisfactory and profitable answer then it will mean that next year the Public Works will look even smaller than it looks this year. And we are not doing that in order to deprive the House of the opportunity of debating the Estimates of Expenditure of the Public Works Department, we are doing that because we think that is the way we ought to run the place efficiently and essentially, at the end of the day, we will finish up with a much smaller set of Estimates of Expenditure and certainly if we can come back in 1992 and still say "we will not have a Finance Bill for four years", we will do that for another four years and you will certainly not find it different from now and 1992. We know that we can do it between now and the next elections and we have already done enough homework to know really, as I said at the beginning, Mr Speaker, that we are already able as soon as we finish this House to start working on the Budget for next year because we do not do it once a year, we do it all the time and during the course of the year this book will cease to have meaning and something new will replace it. We however have to come under the Constitution and under the Public Finance (Control and Audit) Ordinance once a year and say to the House "right this is the money we need for the next twelve months". There were a lot of other things that we needed money for twelve months ago but we do not need money for that anymore because we are taking care of that in some other way which we believe to be better value for money that is all we are defending and I do not believe and I cannot believe and I cannot accept that anybody is doing any service to the course of socialism by pretending that efficiency and good Government and value for money are the sole prerogative of the Right. For me, if I am told that what we are trying to do in giving an example of demonstrating to the world that socialism works and can work as well and as efficiently as anything the Conservatives claim to be able to do, if that makes me a Conservative then I can say it is inverted logic because there are things the Conservatives can do which I am demonstrating we can do and there are things we can do that they cannot do which is what baffles the Member opposite. That not only can I sit in this House and explain to the seven Members opposite what we are doing with the economy of Gibraltar and with the Estimates of Expenditure, but that I have also sat with my 24 Shop Stewards in the Government of Gibraltar, members of my union, friends and colleagues of mine and although they are average manual workers I have taken them through the Estimates and I

have explained to them what we are trying to do and I have asked for their help and support and I am proud and glad to say that we are getting it. The Government recognises the enormous debt that it has to people who trust us and who understand what we are trying to do and who accept, because of their trust and their loyalty, that if we are advising them to follow down that road it is because we care for them and their future and their families. We would not want to do it for any other reason because we do not want to do them any harm and we do not want to hurt them and that is why they follow us. I regret to say that we have not been so successful throughout the structure of the public service. This is why paradoxically a fortnight ago we had a situation where managers were on strike and workers were working. Managers who in the last sixteen years under the previous administration had locked people out for refusing to carry out an order. No doubt that explains why Members opposite came to their rescue. All I can say is that even there, I believe, we are breaking down barriers of hostility and suspicion going back many years and that people are beginning to see the light of day but that the process I am afraid is too slow and therefore there is no going back as far as we are concerned and there is no compromising on the road which started out for ourselves and for Gibraltar and we can no more than give our service, our time, our dedication and our love for the people of Gibraltar to take Gibraltar forward. The Members opposite can offer the people the way back into the past if that is what people choose. I commend the Bill to the House.

HON A J CANEPA:

Following tradition, Mr Speaker, we will vote in favour.

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 SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) ORDINANCE, 1990

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Specified Offices (Salaries and Allowances) Ordinance, 1987 be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. The Bill is in fact simply the application of the Annual Salaries Review to the Officers Specified in the Ordinance which are, of course, those that are stipulated in the Constitution and which incidentally affects the incomes of Members of the House and I will not dwell too much on that because I think I might provoke pay claims from some of my colleagues here so I will leave it at that.

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, about a month ago, I think it was just at the time when we got the Estimates of Expenditure and I had them on the table in my sitting room gathering a small amount of dust because I had only had them a day or two, a youngish budding accountant did not notice that it said "confidential" and he was looking through them and he asked me "what is this?". "Is the Government treating the Civil Service so badly that certain people are now getting more money than the Financial Secretary and than the Attorney General and so on". And I must confess that at that moment I had forgotten about that, I had forgotten that it had been mentioned, in fact, to me that the Bill was being delayed and that it would not see the light of day until now. When that young budding accountant went back to Newcastle I had to write to him to explain "look what has happened is that the Financial Secretary and the Attorney General, etc are still on 1989 pay scales and the other people that you were looking at in the Estimates are already on 1990 pay scales". And in fact, having this morning collected a cheque on behalf of a certain lady who is being paid a small increase as from the 1st April 1990, for the 1990 award, I must obviously on behalf of the Opposition say how glad we are of the opportunity to pay the aforesaid gentleman to be able to pass this legislation so that they are given what is due to them with effect from last year, because they are still lagging a year behind, so we vote in favour.

HON ATTORNEY GENERAL:

Mr Speaker, can I thank the Leader of the Opposition for his kind comments. I am particularly delighted to hear that a budding young accountant from my own home city

has perhaps been, in some way, instrumental to this Bill, at long last, coming to the House. As I stand to benefit, Mr Speaker, in a not insignificant way from this Bill I will, of course, be abstaining but I most certainly will not vote against it.

MR SPEAKER:

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

HON CHIEF MINISTER:

I have nothing further to add Sir.

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary abstained.

HON CHIEF MINISTER:

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

This was agreed to.

#### THE LITTER CONTROL ORDINANCE 1990

HON J E PILCHER:

Sir, I have the honour to move that the Bill for an Ordinance to provide for the appointment of Litter Authorities, the creation of the offence of leaving litter and the designation of litter control areas together with matters incidental and ancillary thereto be read a first time.

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

SECOND READING

HON J E PILCHER:

Sir I have the honour to move that the Bill be now read a second time. Mr Speaker, the piece of legislation now in front of us has taken some time to be prepared. I think I will start by explaining that there is no doubt in the minds of the Government, and it has been mentioned on various occasions during the debate on the Appropriation Bill and at other stages during the life of this House, that Gibraltar was not as clean as it should be and I use that term, at this stage, advisedly. The problem of litter, Mr Speaker and the problem of uncleanliness

is not a problem that was created in March 1988. I am not going to dwell on the difficulties and the historical problems left to us by the AACR. What I am trying to do initially, Mr Speaker, is dwell on the historical difficulties which, I think, made it to a point difficult for anything to be done prior to the bringing together of this Legislation. I am referring, Mr Speaker, to the three areas covered by this Ordinance which to a point has baffled, and I am sure it also baffled the AACR prior to us coming into power, but it has certainly baffled us during the period from 1988 forward, the three areas that we have, the offence of littering, of people throwing pieces of paper on the ground or leaving bags of litter around and how to tackle that. But, of course, one could not really take a step forward without really looking at the problems related to the amount of accumulations in other areas of Gibraltar, as far as I was concerned, not littering but accumulations of masses of litter and the eyesore it created and was much more difficult to control than the actual littering ie dumping a piece of paper on the floor. Before we were in a position to introduce this legislation there seemed to be, at one stage, a public outcry for on the spot fines or litter tickets which is something which I will come in a moment. Certainly we, on this side of the House and I in particular, thought that we had to find a solution for major accumulations. It was not, as far as I was concerned, not only a politically dangerous thing but also immoral to create on the spot litter fines when the major problem, I should say 75% of the problem, is created by accumulations of litter and those accumulations are mainly in areas which are so called private land. The first part that we wanted to address, Mr Speaker, I will explain as I go through the Bill what each part of the Bill does, the major problem of the accumulation of rubbish would be seen obviously by the ordinary man in the street, and rightfully so, as a situation where we were using a hammer by fining a person who dropped a piece a paper and then there are private businesses having major accumulations of waste and nobody does anything about it. So when we started investigating the problems related to the major accumulations of waste, and I am talking not only from a tourism point of view, because litter and accumulations of rubbish affect every one, I think the Chief Minister himself has mentioned this in his summing-up of the Appropriation Bill, even the Finance Centre is affected by the cleanliness, the ambience of the City. Because obviously if somebody feels that Gibraltar is dirty then it creates a problem of image and certainly tourism is one of the areas which is most affected. Because as I said this morning tourism and litter and cleanliness create a specific problem for Gibraltar because the word gets around that Gibraltar is dirty and despite all our marketing the message going back is that Gibraltar is a dirty place or that certainly it was not as clean as it should be. Mr Speaker I will not be moving through



the Bill in the right order but if Members turn to para 7, the Litter Control Areas which as far as I am concerned is the most important part of this Litter Control Ordinance because what this creates is that it defines what is a Litter Control Area. Any place which is a free public open place can be determined to be included under the terms of the Litter Control Area and free public open place means a place in the open air to which the public are entitled or permitted to have access without payment. Hence, Mr Speaker, if there is any private land to which people have access then the owner of that private land area has only one of two options either he keeps the area clean or he creates a hording, obviously in agreement with the powers that be, which will keep the litter behind it and not affect the ambience of the area which we want to protect. Mr Speaker, what happens is that the Authority issues a designation of notice in relation to any land which shall be created a Litter Control Area and let me explain by using an example which will drive the point home. One of the areas in Gibraltar that certainly needs a facelift, it is probably one of the worst areas in Gibraltar, is Devil's Tower Road. Now if the Litter Authority designates Devil's Tower Road and the adjacent areas a Litter Control Area it would then notify all the businesses in the area that all the adjacent land to Devil's Tower Road is a litter control area and therefore the private individuals are notified in writing by the Authority and they have seven days in which to appeal against that decision, if they feel that their area should not be, and I cannot suspect that any of them will because we have the full backing of the Chamber of Commerce and the full backing of virtually every single body in Gibraltar. So I think no business would be very popular if they tried to fight against what at the end of the day is something which is for the betterment of Gibraltar. Nevertheless they have the right to appeal against that decision and at the end of seven days the Authority takes a decision and it creates the Litter Control Area. Obviously the entity can then pursue the matter through the Courts if they so feel. But, I think, Mr Speaker, that to me that is the most important part of this Litter Control Ordinance and as I say it provides for the single most important element that has always baffled all Government Departments. When I confronted the Police, the Public Health Authority, the Fire Service and any other of the services they told me that there was not one single law that allowed us to stop this kind of thing. One could do it as a fire hazard but that was difficult or through the Public Health Ordinance but then even within the Public Health Ordinance one had numerous amendments, consequential amendments, to this Ordinance which made their task even more difficult. Now one of the amendments which we are making is an amendment which changes the definition of one of the sub-sections in the Public Health Ordinance which said that if it was a matter which had been used in the creation of the business then it was not an offence because that was something that was used for the business. This meant

that businesses could leave their pallets, cardboard and anything else in their own area and it was not an offence under the Public Health Ordinance. They could be summoned for a health hazard, a public nuisance, a fire hazard but not under any Litter Ordinance. So, I think Mr Speaker, that is one of the imponderables which I hope this Bill solves. The other imponderable, Mr Speaker, was the creation of the on the spot fine or Litter Ticket. Initially, Mr Speaker, we had, as a Government, come under a lot of pressure from many bodies such as the Chamber of Commerce, the Housewives Association, the Ornithological Society and nearly every other single body in Gibraltar. These bodies have now formed under a "Make Gibraltar Brighter" campaign were making representations to us that we should create some kind of fine. There were two possibilities, the creation of the Litter Ticket or the creation of the on the spot fine. I think, the previous Attorney General recommended against the on the spot fine because he felt, and I think to a point I tend to agree with him, that the creation of on the spot fine would be and I think the words he used were "quasi-unconstitutional". Because under British law everybody has a right to prove his innocence without being fined on the spot. Therefore that in itself would create a tremendous problem from a legal aspect but even more difficult than that was that it would create a tremendous administrative problem. One would require to have policeman or wardens carrying money in order to give change and then have account and audit and it would be an administrative nightmare. So from the very outset, Mr Speaker, although we knew that it would create problems we felt that hopefully this Litter Control Ordinance would do as a start of what we feel is a major need for Gibraltar the creation of a Litter Ticket similar to the creation of a Parking Ticket. This meant that if somebody is seen throwing litter there would be a litter ticket given to him at that moment and the person could either pay at the Magistrates Court or contest it in Court in exactly the same manner as the Parking Ticket. Of course it is true to say that because we have such an influx of tourists that that in itself could create a problem and I have discussed this aspect with most of the bodies that I have mentioned before and I think the general consensus of everybody is that this is a necessary step. It might be the case that in many cases tourists might get handed litter tickets and they might walk across the frontier or throw it away but it was something that had to happen Mr Speaker, that was the general consensus of all the bodies that we talked to. In moving towards this creation of a Litter Bill we have gone down the path of the UK authorities who do not have "on the spot fines" because most of the Councils in UK have Litter Tickets which work well in certain areas and not so well in others like for example in London where they have a tremendous movement of tourists. Nevertheless, I think, it creates the ambience of the area, Mr Speaker, and I have always said and always been a believer that in most cases if you walk into an

area that is clean you will feel embarrassed to be the first one to dirty it. I will discuss in a moment the enforcement of the Litter Ticket but certainly it cannot be said that it does not work because there is not the political involvement or the political backing needed to make Gibraltar a cleaner and brighter place. If I go through the Bill now because there may be areas which I have missed. The interpretation is quite clear, so is the appointment and powers of the Litter Authorities Mr Speaker. This Bill creates the Enabling Powers and it is still to be decided which of the entities in Schedule 1 will be appointed the Litter Authority. What is clear, Mr Speaker, is that what we have already started is getting together the Police, the Fire Service, the Environmental Health, GSSL, which at the moment looks after the traffic ticket, and the Attorney General's Chambers as a sort of Action Committee. This Action Committee will be the Committee that will take this Bill through its different stages, Mr Speaker, but at this stage we have not decided which of those bodies will be the Litter Authority. Irrespective of who the Litter Control Authority is, the Police will be the backup for investigations, for fines and for the Court. The Litter Ticket as such we hope will be issued by a cross section of all of those bodies that I have mentioned. All these bodies will, we hope, be able to give out Litter Tickets because at the end of the day it is just a question of carrying a pad in your pocket and therefore it is my hope that we could all work together and therefore the person when he throws the paper in the street does not know who he is going to get hit by because it may not be a uniformed officer it could be one of many officers. At this stage it is thought that it will certainly be the Police and the Company which at the moment issues the Traffic Ticket. They already have the infrastructure internally to deal with these matters. The offence of leaving litter, Mr Speaker, under the Public Health Ordinance has now been done away with, as I will explain later, and now forms part of this legislation. Obviously it defines the areas and that is a definition that is also applicable to the Litter Control Areas. Fixed penalties notices for depositing and leaving of litter, as I have already explained, although having shortcomings the general consensus was that it was a good way forward. I wish we could implement "on the spot fines" but that is difficult legally and it is difficult administratively and I am not sure that in either of those areas we would not be creating more problems for ourselves than what we would be solving. What we want to do, Mr Speaker, is to solve the litter problem and not to create more problems for ourselves and people feeling that their rights as citizens and their right to defend themselves in a court of law was being done away with. Litter Control Areas, Mr Speaker, once designated it would be the duty of the owner or person in charge to keep the designated land clear of litter. What would happen is once the area has been designated

a Litter Control Area and the people in the area have been advised of this, then if litter is found in that area the occupier of the area would receive a notice not only asking that they clear the area but that it be kept clear for evermore. It also creates the necessary framework for people to be taken to court and for the Authority to remove the eyesores and charge the individual. Under paragraph 10 - Summary procedures by persons aggrieved by litter - it is the right, Mr Speaker, of any citizen to take anybody to court and to file with the Magistrates Court a summary proceeding if they feel that the authority is not taking the matter seriously enough. So any resident of, for example, of Devil's Tower Road who feels that there is something there that is creating an offence under this Ordinance but sees that the Litter Authority is not moving as quickly as he ought to can take the matter up himself. I think it is a good system if we are going to try and get the participation of the public in the cleaning up of Gibraltar. Mr Speaker, I think, we end up with the consequential amendments which are in three areas, one area is obviously consequential amendments like the one I explained in Section 258 on the Public Health Ordinance. It obviously omits the paragraph A which talks about litter and then re-numbers para B as A and para C as B. Basically para B talks about drains and sewers, Mr Speaker, and para C which is now B talks about water in the street and being able to pollute the street by water which we did not feel was part of the Litter Bill. We did not want to take of the Statute Book problems related to construction firms and of having sand filtering into our sewers system. The other element of the consequential amendment, Mr Speaker, are the changing of the fines. One of the things that we determined, Mr Speaker, when we looked at the Ordinances were the fact that the fines were antiquated. I will therefore ask the Attorney General when I have finished my contribution to explain the system of fines. What I asked the Attorney General's Chambers was to create a minimum and a maximum fine. One of the problems that we have had and the feedback that we have had from the Police is that sometimes after taking somebody through the whole rigmarole of finding him and taking him to Court it appears that there is then a problem with the level of the fine that they are charged in Court. We could not do a minimum, maximum fine, we have put up the maximum fines substantially and I think the Attorney General will explain the reasons for that because it has to do with the Judiciary and I thought it would be better if he explained it. The third element of the consequential amendments are in fact, as I was saying Mr Speaker, to change some of the words in the Public Health Ordinance which had affected the ability of the different departments to create or to fine people. Sub-Section 60, for example, by omitting from the definition of Refuse Storage Accommodation the word "House", because before, the Ordinance only forced people in houses to have storage accommodation but what about the people in offices? There are offices everywhere and they should also be forced to have a Refuse Storage accommodation so as not to have

to put their refuse, papers etc outside. However by inserting in Sub-Section 67 after the word "Metal" the word "Wood", because again that had been missed and wood did not form part of litter, as defined in the law. Therefore by omitting the comma after the words "including organic matter" and the words "but does include material accumulated for or in the course of any business and this is what I was referring to before, Mr Speaker, "but does not include material accumulated for or in the course of any business", which meant that pallets, boxes used in business could not because of this loophole in the law be taken forward. The other amendments are consequential changes, most of them creating a much stiffer fine for the dumping of vehicles because there is still a major problem with the dumping of vehicles and we felt that the fine should be increased. The Attorney General will explain the question of fines in a moment, Mr Speaker. I think basically the only other element, Mr Speaker, of the consequential amendments which we are changing is the parking of heavy goods vehicles and trailers. Again what we have found is that although the law is very strict as regards the parking of public service vehicles, ie, buses etc, there was a quirk in the law and it did not apply to the parking of heavy goods vehicles and trailers. Mr Speaker, in conjunction with the Traffic Department we wish to solve the historical problems related to the parking of lorries etc. It is not something that we want to implement to the letter of the law but on the other hand we cannot have derelict trailers parked in the middle of touristic areas or in the middle of public amenity areas, like in Eastern Beach. At present, Mr Speaker, it appears that there is nothing we can do about it but with this amendment we create an offence and although, as I say, there will be flexibility being used by the Traffic Commission. It is a problem that the Minister for Trade and Industry and the Minister for Government Services are looking at but there are areas that we cannot tolerate these vehicles being dumped. Mr Speaker, dumped is the word that reflects the position because some of these vehicles are unusable. Schedule 1, as I mentioned, Mr Speaker, is the area of the Litter Authorities and the fines and fixed penalties, it creates. The amounts specified in respect of the Fixed Penalty Notice issued under Section 6 is £20. So the Litter Ticket would actually cost £20 to somebody who was caught throwing litter. I will leave it at that for the time being and see the reaction of the Opposition. I would only ask the Attorney-General to explain the matter of the minimum and maximum fines. Thank you 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, we support the Bill in principle and we will be voting in favour. I would however ask the Government to delay the Committee Stage and Third Reading of the Bill until the House next meets. It is clear, and, in fact it was clear to us already when reading through the Bill, although after the Minister's explanations it has become even clearer that some more thought needs to be given to this Bill and I myself am going to mention a few points that I would like to ask the Government to consider. My colleagues Mr Ken Anthony and Col Britto will also be making some other points and really the gist of it all is that this Legislation in our view is either half baked or at the most three-quarter baked. I therefore feel that if it is delayed until the next meeting, in the overall timescale of things, very little time is going to be lost. The Minister has already said that they have been thinking about this Bill for a number of months and there are Regulations that still have to be published. I do not know whether the Regulations are ready and if they are not ready then work could proceed on the Regulations over the next few weeks until the House meets again whilst the Government gives some further thought, because of points which the Minister himself has brought up, such as the question of enforcement. He said that they are still thinking as to who should be given powers under the legislation to be an Enforcement Officer. Whether the Chief Fire Officer is going to be brought into it, or if it is just going to be the Traffic Wardens and the Police. They are still thinking about the matter and therefore, I think, it would be a good thing if they listened to us and then went back and gave further thought to the matter. I find, Mr Speaker, that the definition of litter is extremely wide and that unless discretion is exercised sensibly with commonsense because the definition is so wide, and I am not affected as a non-smoker, that I shudder to think what could happen to anybody that smokes and drops ash in the street, because according to this definition litter means anything which is dropped into or from any place being a free public open space or a Litter Control Area. It seems to me as a layman that under this definition of litter, the dropping of cigarette ash can be an offence. Commonsense would demand that an Enforcement Officer should not issue a litter notice to such an offender. I however remember, and this is where the benefit of having been in the House is useful, that when we introduced the Parking Tickets for the parking of vehicles, and you were a member in the House, Mr Speaker, at the time, that assurances were given, undertakings were given by the Attorney-General of the day, on behalf of the Government, that parking tickets would only be issued where serious obstruction was being caused. Now there was a change of Commissioner of Police and the Attorney-General some years later had to stand up in the House and say "well that is what the Attorney-General said at the time, but the Enforcement Officer is the Commissioner of Police and he is entitled under the law

to exercise the powers that he has been given in a much more stringent fashion". So, I think, further thought needs to be given to that, otherwise, as I say, there can be problems. On the question of Regulations, the Minister has said nothing about the Regulations which the Government proposed to enact when applying the provisions of this Ordinance in respect of any description of animal droppings. Again I would like to hear from the Minister when he exercises his right to reply what is it that the Government has in mind, are these droppings the usual ones that we think cause offence or does it include the sprinkling of the pavement and so on, is that going to be included in the definition of animal droppings because otherwise I do not know where the poor things are going to relieve themselves and sometimes the watering of certain areas is beneficial. Also what does the Government have in mind with a view to Clause 5, Sub-Clause 6 where the view to promoting the abatement of litter the Government is empowering itself to take such steps as it thinks are appropriate for making the effect of Sub-Section above known to the public. What would that consist of? Are they going to compel GBC whether they like it or not to advertise for the Government on this matter. Some indication is needed to put our minds at rest that the Government is not going to exercise very very wide powers under this particular Sub-Clause. The Minister has also spoken about the problem of visitors to Gibraltar and there is, of course, awareness I am glad to see, on behalf of those responsible, that this is a problem area, it is a lacuna obviously in the Bill. The reality is that residents of Gibraltar are the ones who are going to be caught by this legislation and that visitors are going to be able to get away with it. I accept the point that the Hon Minister makes, that a start has to be made, but I wonder whether there has not been over-elaboration about the problem of administering a system of on the spot litter fines. It is done elsewhere, Mr Speaker, because on the spot fines are levelled in Spain, where bureaucracy traditionally is greater and more complex, than in many countries of Western Europe. If your car is badly parked or you infringe any traffic regulations or what have you then you are issued with an on the spot fine and you either pay or you are in serious trouble. The policeman who fines you is able to record the fine and gives you a receipt and he has a record and it works. At least, it seems to be working alright and if it can be done there then I do not see why it cannot be done here. Perhaps on an interim basis we should proceed as we are doing and the matter should be reviewed in a year's time when they will find that what is happening is that if a high proportion of visitors are getting away with it it will be because the Enforcement Officer in the exercise of his power may when dealing with tourists decide not to issue them with a notice of a litter offence. So I hope that the Minister is indeed prepared to keep the matter under review for their own sakes because, I think, otherwise the system will be seen to be operating unfairly and the public will kick out against it because they feel

that it is unfair. We were surprised, because those Honourable Members opposite who have been Members of the Opposition know that sometimes you get a Bill and you look at the laws of Gibraltar and you go through the Ordinance and it can become a difficult job to find out what it is that it is related to. But when you have a Bill on Litter Control which also amends the Traffic Ordinance and when there is a reference to Section 18(a) of The Traffic Parking and Waiting Ordinance which does not exist then your job is made even more difficult. I am surprised that the Government must be legislating, in such a fashion that the Traffic Ordinance is amended by an entirely new piece of legislation straight from the printers, breaking new ground, to amend the Traffic Ordinance then this is an extraordinary state of affairs. This Bill was published on the 17th May. This other Bill was also published on the 17th May and I cannot understand that, Mr Speaker. However as I was saying when we went to the laws and we were looking for The Traffic Parking and Waiting Order we found that there was not a Section 89, there was only a Section 18 and therefore we either came to the House and perhaps made fools of ourselves or we tried to find out what it was all about. So I picked up the telephone and I phoned the Chambers of the Attorney-General and I spoke to the Crown Counsel, and he very kindly explained to me that sure enough there did not exist a Section 18(a) but it was in the pipeline and the Government was thinking of enacting this Section. He explained what it would do and I gave a very detailed note to my colleagues about it. Mr Speaker, it has to do with parking and with loading and unloading bays and where there is abuse. Lorries are being left apparently longer than they should be for two or three hours or once they have finished unloading they are left there parked on a loading and unloading bay and I can understand why these draconian fines were being levied. It is a rather serious offence, I think, to do that but I would have thought, Mr Speaker, that rather than proceed in this fashion the relevant section should have been enacted and then we should have proceeded not to amend in anticipation of something which does not even exist. Mr Speaker, I do not know whether it is constitutional to amend something which is not in the Statute Book. So all these things are indicative of the fact that the Government was obviously giving a great deal of thought to the matter and they wanted to be seen to be moving on what is a frustrating area, or a problem, for Gibraltar. I can understand the Minister wanting to bring this Bill to the House to show that the Government means business and that they want to do something and therefore we support them in their endeavours but I am sure that they will find no difficulty in agreeing to delay the Committee Stage in order to give further thought to the matter themselves by taking on board the points that we make and as a result bring a better Bill at the end of the day.

HON K B ANTHONY:

Mr Speaker, the Leader of the Opposition has covered many

points that I had intended to raise but I also have a few points that he has not mentioned which, I think, must be brought forward. I agree fully with the principles of the Bill and I think it is an excellent Bill, in principle, because this is something which I have been fighting for in this House ever since I was elected two years ago. As the Honourable Minister has said there are areas that are complete eyesores and that need to be cleaned. They need to be cleaned drastically to make Gibraltar the touristic paradise that I sincerely believe it could be. Yet when I read through this Bill I find that there are a number of things that need serious consideration. Mr Speaker, I was also rather surprised that the definition of Litter, because it is such a wide definition that I think it is perhaps a little bit too strong. We also have to bear in mind where do children fit into this scheme? Are children going to be issued with litter tickets? It is to be hoped that children would be educated in schools and homes so that they do not drop litter but I think the Minister is being a little bit optimistic because children are notoriously unclean conscious and they drop their chocolate wrappers, their ice-cream wrappers etc everywhere. So I think that is something that must be seriously considered because I can hardly think that children will be given tickets. I do agree fully with what the Minister says but it looks very much as if any visitor given a parking or litter ticket will get away with it whereas if a visitor parks his car badly enough then his car will be clamped but you cannot go round clamping visitors. They will be able to walk over the border and the ticket will be taken home as a souvenir to England or wherever and they will say:- "look what we got when we were in Gibraltar ha! ha! ha!". However there may well be a backlash from the local community who are going to be the ones that are going to have to pay the fines whilst visitors are going to get away with it. I think possibly a fixed fine, on the spot may be the answer. My colleague expressed his view that it does work in other places and it could well work here and it may be something that the Minister may yet consider seriously. What happens, Mr Speaker, when there is litter on Government land. Is the Government going to clear it up? Will the MOD be made to clear up their land? I have gone to the Upper Rock and although the roads are fairly clear if you look over the walls there is an accumulation of coke cans and what have you. Who is going to be responsible for cleaning this up? Will the MOD in the time that they are still going to be here be made responsible for cleaning their own areas? This is something that must also be seriously considered. There are one or two Sub-Sections that have me a little bit puzzled dropping rubbish in planted areas this was specifically mentioned. Section 258 of Sub-para 11(e), I do not think there are many planted areas in Gibraltar but surely there must be a reason for putting this in? Another question that I think must be asked, Mr Speaker, is how much discretion will the Litter Authority have when giving out their litter tickets. For example will

they have the discretion to say to somebody "pick it up" and if the person does not pick it up then issue the ticket or would it be automatically "You have dropped it, now you get a ticket whether you pick it up or not". This is an important point that must be looked into. We must make certain that Gibraltar is clean, but we do not want to go from one extreme to the other from having a dirty city one day to the next when everybody is scared to flick a cigarette on the floor in case they get a £20 fine. I agree with my colleague the Leader of the Opposition when he spoke about the Section referring to animal droppings and I must plead an interest here because I am the owner of a very large dog. I know the Government Members know this and they also know that I always carry a booper scooper with me when I go out but that does not apply to urinary deposits and I am certainly not going to start carrying around a sponge as well, at least I sincerely hope not. I think this is something which has to be looked at because we do have legislation for cleaning up behind dogs at the moment although I do not think it is ever seriously applied but I wonder whether it is now going to be applied with a vengeance. I think people need to know this. Before this legislation is put into practice, Mr Speaker, I think that the Government have a certain responsibility to the public who they are trying to discipline into becoming more litter conscious and I agree that we must have education on litter in the schools and through the media. I suggested last year, in a debate, that it might be a possibility to have printed leaflets given out to every visitor coming in by land, sea or air that this is a litter clear community and that they will be fined if they drop litter. This may well be an opportunity to introduce this as part of the Government's plans to make people more aware that we do not want litter on our streets. I also said last year, Mr Speaker, that we may need more litter bins and litter bins must be emptied immediately they are filled at least if they have to be emptied once, twice, three or ten times a day so be it but let not people turn round and say I could not put my litter in the bin because it was overflowing over onto the ground. I think also it would be necessary to clarify for the benefit of every householder, shopkeeper, etc in Gibraltar that once this legislation is passed, where people should put out their rubbish? Will they be guilty of an offence if they put a bag of rubbish on the street corner where they have done so for years? Rubbish must be put somewhere before it is collected and under this legislation, as it stands, putting out rubbish on a street corner could make that person liable to a fine. This is something that could also be gone into detail before we go to the Committee Stage and Third Reading of this Bill. But having said my little words of warning, Mr Speaker, I still reiterate that we support this Bill fully and that we all, on both sides of this House, want a clean, tidy Gibraltar and if this legislation, if not totally successful, is at least a step in the right direction and if it does make Gibraltar cleaner once it becomes law then I and all my colleagues on this side of the House will be delighted. Thank you Mr Speaker.



Mr Speaker, as has already been indicated we on this side of the House support the Bill and in a way I am sorry that it has been in a negative sort of way. It would have been nice to be able to support it in a more positive way but I regret that this Bill is full of rubbish. It has however to be supported and I will go on to constructive comments. My two colleagues have talked about definitions and I will not go into more detail on that but what I think I should stress to the Minister is the need for publicity on a very large scale before, or immediately after, this Bill comes into force. There is obviously a great need to make people aware of how wide the powers are and how heavy the fines are and there is an obvious need for quite an amount of publicity to be given. Secondly the Minister went into great detail on the reasons for appointing Litter Control Areas and with which I have no political argument as to his reasoning. The only point I would make is why does he have to designate partial areas as Litter Control Areas? Would it not be more effective making the whole of Gibraltar a Litter Control Area? Is there a difficulty in doing this? If there is, I just thought that it would be more effective and you would kill two birds with one stone rather than making exceptions. Thirdly, Mr Speaker, the Minister said that the Government was still considering which of the bodies named in Schedule 1 will be nominated as the Litter Authority and which one to use. I would have thought, Mr Speaker, that the answer would have been surely to use all of them. Is it not better to have as wide a net as possible than rather just use one or maybe two? Again I put the thought of why limit it to one? Why not nominate them all? On the question of visitors as it has already been said, we appreciate the difficulty and I would like to make another suggestion to the Minister on the question of on the spot fines, could not both this and the litter tickets be introduced in tandem and one of the bodies nominated in the Schedule that has the ability to control money, as for example GSSL who already control money, be given the powers to operate the on the spot fine? If they had the power to apply on the spot fines then those areas that are particularly affected like for example a certain part of Irish Town which is badly affected, or the Casemates Area which is usually full of Winston packets amongst other things, these particular areas could be policed and I use the word "policed" in the broad sense and not in the sense of the uniformed force, be looked after by that body that has the ability to apply on the spot fines. This way we could avoid the possibility of word getting around amongst the visitors that all they have to do is to refuse to do anything about it and the force of the law cannot be applied against them. I apologise for repeating one of the points made by my colleague the Honourable Mr Ken Anthony but I am not quite sure that the Minister heard it as he was otherwise engaged at the time. This is the question of Refuse Collection from private households and even commercial premises for

that matter. It is not clear to us whether maybe in the Regulations there will be some provision made for an exemption because it seems to us that as the law stands now the current practice, so prevalent throughout Gibraltar, of putting out your refuse the last thing at night for collection by the Refuse Department early in the morning will become an offence. If that is so what does the Government have in mind? Is the householder expected to stand outside his front door at nine o'clock in the morning with his bag of refuse in his hand waiting for someone to pick it up from him and putting it into the back of the lorry? Because the moment he puts it down on the ground then he is committing an offence. Obviously there has to be a certain amount of commonsense in enforcing this legislation. I think we would appreciate an idea of what the Government is thinking at Committee Stage. In conclusion, Mr Speaker, I will refer to something I said yesterday and that is, because the definition of litter is so wide, is the depositing of sand or litter an offence and if it is so then the movement of lorries down at Reclamation lifting up sand and depositing on the other side of the fence onto the Varyl Begg Estate will that be an offence? And if so, will it be stopped? Thank you, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, the Social Democrats welcome the Bill but we think that there are some difficulties with it. Some of the points that have been mentioned by members on this side are points, that subject to clarification which the Attorney-General may be able to give, I would suggest can be dealt with in the Rules that would have to be prescribed under the Ordinance. For example, one point that has been brought is the question of definition of animal droppings. Well I would have thought that Sub-Section 4(c) that actually says that the Rules are going to define what description of animal droppings, that there in the Rules you are going to say what you are trying to do. Similarly in things like the cigarette ash situation, I would suggest two solutions to that looking at it at this stage constructively. Certainly under 4(d) there is power to prescribe Rules introducing necessary procedures to be followed and I would have thought that in introducing procedures an element of guidelines could be established for the authorities to police the Ordinance. There should be a clearly defined criteria to which regard would be had. Quite apart from the fact that as a matter of law, and subject to what the Attorney-General might say, I think the general rule of law which I would suggest if a ticket was issued to a person for a situation such as ash and that person went before a Judge then I think a Judge in that situation would say that that was not an offence at all, because it is a diminimus ie, so minute an act that it just does not represent the physical act which forms part of the offence. Mr Speaker, the two main areas that I would like to contribute on briefly, because I do not want to extend the debate, concerns firstly



Government property and I suppose in this respect MOD property also, and the question of on the spot versus the fixed penalty or ticket approach. Dealing with Government property I welcome the shift towards personal responsibility that the Bill involves namely you know it is an area of land which is under your control as far as you are concerned and the area adjacent is effectively one which you have an influence over therefore if we designate that area we are saying that you have a responsibility to take care of it. I think that is fine but what I do not think is feasible is for Government to be able to designate areas which are going to affect private tenants and occupiers without making clear that it would also designate areas which are under Government control for similar treatment. I think that would be important because, for example, in improving the quality of life for people, and I take an obvious example, the Housing Estates, where the control of litter is often not an easy problem then I think it would be only right for Government to say that at some stage when you feel you can police these areas that we are going to designate, a certain number of Housing Estates or all of them, hopefully, to be litter free zones or whatever the actual terminology is. So that the Government is subjecting itself to the same degree of responsibility as they are expecting from a private landlord or a private owner. The present provision simply says "The Government may by order prescribe descriptions of land which may be designated under Sub-Section 2 as part of a Litter Control Area". I think it would be quite wrong when Government is nearly the 50% owner of land in Gibraltar to also have designation orders for people in the private sector and not for the Government. Let us all be responsible for all we produce but this has to be across the board. The position with the MOD I think is perhaps a little more insoluble in that I am not sure to what extent there is jurisdiction by any of the specified or the proposed specified offices of MOD land. I would have thought that there is no jurisdiction and therefore say you have the runway or areas adjacent, I do not know and I stand to be corrected by the Attorney-General, I know it is a criminal jurisdiction and criminal jurisdiction normally does extend into MOD property but I am not sure where in this regard bearing in mind the type of offence, I am not sure whether it would be clear that jurisdiction would extend, ie from the point of view of the officers who are supposed to be policing that jurisdiction to act in those areas. That is, Mr Speaker, what I am trying to highlight. So I think if Government were to clarify how they intend to deal with their own properties and if they could confirm to this House that it would be looked at across the board in an open and indiscriminatory fashion then I would be prepared to accept an undertaking at this stage so as not to delay the Bill. The on the spot fine is the more difficult one. I think it is inevitable to some extent that people who come to Gibraltar as visitors are always going to find it easier to get away with things than those who do not. I would not personally like to

delay legislation simply by getting bogged down with the on the spot option. As long as the Attorney-General could give me an adequate explanation now why that option, because I do not think the Minister went into that in too much detail, why that option has really been so wholeheartedly rejected. Clearly from what the Minister has said most Councils in the UK have opted for litter tickets, I will be interested to know whether places like Bath or York, for example that have a large visiting population do they have on the spot fines? Or do they have litter tickets? And what sort of experience have they had? Are people fairly responsible in turning up at the Magistrates Court and paying? Or do they simply walk out of York and that is the end of it. I know that the UK is slightly different and you can always track down people, probably through their addresses because it is within the same jurisdiction, whereas in Gibraltar they leave the jurisdiction. Would the Attorney-General explain what has induced the Government to completely reject the idea of on the spot fines. If I found that convincing then I would be prepared to see this through and then see how the matters of detail are dealt with in Regulations. If the Government says "Well look we have not frankly considered on the spot option seriously or sufficiently in depth" then I would concur that there is sufficient mileage in pursuing that option and perhaps have a small delay in this Bill in order to get that aspect of it a little more right so that there is more equality between residents and non-residents.

HON J E PILCHER:

If the Hon Member will give way.

The option, Mr Speaker, of on the spot fines has been discarded by Government for various reasons. One is the advice given by the previous Attorney-General. Basically there are many factors related to it, as I have mentioned, one is the administrative factor and the fact that I think it would create an administrative nightmare with regard to accounting. The Honourable Leader of the Opposition said that this is normal in Spain but it is also normal in Spain to give on the spot fines for parking offences, for speeding, however this is not common in the British legal system and this, Mr Speaker, is why on the spot fines are not used in any area in UK in relation to litter or to any other offence. That, Mr Speaker, was the advice of the Attorney-General but let us not forget that we are not only talking about the legal problem, we are talking about an administrative problem and we are talking about problems which we would encounter if the person that is fined for a traffic offence does not want to pay because in that case you take the car away and you impound it. However what happens if a tourist is caught throwing a piece of paper and he is presented with an on the spot fine and he does not have money then what do you do? Do you arrest the tourist? That is the administrative

nightmare and it would burden the police in a way that I think is not warranted. I am prepared to monitor the effect it has and to look at the on the spot fine but it is up to the Opposition and if they insist I will hold the Bill back. I must point out that it is an important piece of legislation let me add that all the bodies that I have discussed the matter with and I assure the Honourable Members opposite that I have discussed them with every single or almost all the bodies that are active in campaigning. The Green parties, the Ornithological Society, the Housewives, the Heritage and this is the consensus that they would like to see. I have no qualms whatsoever to move away from the litter ticket and leave it if it is felt that it is a problem, but what I have brought to the House 'as far as the litter ticket is concerned is, I think, the most that the Government would want to do at this stage, Mr Speaker, although Hon Members are at liberty to ask the Attorney-General on legal matters.

HON P C MONTEGRIFFO:

Can I ask the Minister whether he can say something on the Government property angle of it?

HON J E PILCHER:

I will if the Hon Member wants me to do it now.

MR SPEAKER:

I think I might clear the air a bit. It might be a good idea if the small points that Members have could be dealt with at Committee Stage. I think the important question now is whether the Minister would like to delay the Second Reading until the next meeting.

HON A J CANEPA:

When the Hon Minister exercises his right to reply he is able to react to the question about tourists or visitors to Gibraltar who do not have money because I honestly do not think it is valid. I am sure that when the Hon Member goes to Spain and knowing that there is the possibility that he could be fined on the spot then he makes it his business to take money with him in excess of what he thinks he is going to spend to cover that contingency, at least I do, I always have in mind the level of fines for traffic offences, I always have that in mind and I take sufficient money to cover myself for that eventuality because it can happen and we know many instances of Gibraltarians that have had to leave their car there. I honestly do not think that it is valid and let me warn the Honourable Member that already in anticipation of this the matter is being discussed with my colleague in the street and the reaction is going to be .....

HON J E PILCHER:

Mr Britto again I presume, Mr Speaker?

HON A J CANEPA:

Yes, Mr Britto. The Hon Member almost lives in Main Street since he spends a large proportion of his day there and he meets people and talks to them when they come into his shop.

HON J E PILCHER:

He is the man in the street?

HON A J CANEPA:

The ordinary man in the street is Col Britto.

MR SPEAKER:

Does the Honourable Attorney-General want to make a contribution?

HON ATTORNEY-GENERAL:

I cannot remember who was speaking in the first place Mr Speaker. Has the Honourable Mr Montegriffo finished? Mr Speaker, can I say how very pleased I was first of all when the Honourable Minister for GSL and Tourism came into my Chambers and gave instructions for this Bill to be presented because speaking firstly if I may briefly as a resident of Gibraltar it is just not acceptable to me the standard that Gibraltar has on tidiness and the manner in which so many people quite wilfully drop or leave litter in the streets and speaking publicly, as Gibraltar's Attorney-General, it is to me a criminal offence. But up to now, Mr Speaker, it seems that law enforcement has been rather lax. The laws have not been enforced as they should have been and it seems to me also that the laws have been somewhat inadequate and the Minister was absolutely right when he said in the course of his brief reference to this Bill, during his contribution on the Appropriation Bill, when he described it as being something of a hammer. The Hon Minister was absolutely right to give it that description because what the Bill is really doing is two things, Mr Speaker, it is really first and foremost an enabling Bill in that it is the skeleton, if you like, the bones on which the meat will be put by subsidiary legislation rather like the Financial Services legislation we had a few months ago. The large part of the Bill which increases the existing penalties and indeed imposes new penalties in the terms of the Bill itself is really a message which I hope everyone in Gibraltar, not just Gibraltar residents, but everyone coming into Gibraltar and who, of course, are subject to its laws from the moment they enter Gibraltar will get the message loud and clear that the Authorities in Gibraltar will simply not tolerate people wilfully and wantonly dropping litter or leaving litter in the streets and anyone who transgresses the provisions of the law will be dealt with or will be liable to be dealt with quite

severely. Now, Mr Speaker, a number of points have been raised by the Honourable Members who have spoken already on this Bill and one of the points raised by more than one of the speakers was the question of on the spot fines. The Honourable Minister is quite right because I recall well my Learned predecessor advising that, in his view, to impose on the spot fines, and I use the word fine in the true sense of that word, would in his view be quasi-unconstitutional. In fact, Mr Speaker, I am of the view it would be wholly unconstitutional to do that. The Honourable Minister said that everyone has the right to prove his innocence well in fact, that is a slip of the tongue because I am sure that under our Constitution every person accused of a criminal offence, and transgression of this Bill will amount to a criminal offence, is presumed to be innocent under the Constitution unless and until the person accusing him establishes his guilt. That is a fundamental principle of the Constitution, Mr Speaker, that must be respected, of course, and any legislation which passes through this House which in any way transgresses on that fundamental principle will of course be unconstitutional and will be invalid and therefore quite unenforceable. Now I am very pleased to hear that the Honourable Members of the Opposition, that is both branches of the Opposition, Mr Speaker, support the Bill, but .....

HON LT-COL E M BRITTO:

Will the Hon and Learned Attorney-General give way, Mr Speaker?

HON ATTORNEY-GENERAL:

Yes, of course.

HON LT-COL E M BRITTO:

Mr Speaker, coming back to the question of fixed fines, how does the Honourable and Learned Attorney-General reconcile what he has just said with the application of fixed fines for cars that have been clamped for illegal parking for example?

HON ATTORNEY-GENERAL:

I am coming to that Mr Speaker. The question of on the spot fines has been raised by a number of the Honourable Members of the House and the reason that I share the view is, in fact, because I feel, perhaps more forcefully, about not having on the spot fines. As I have said already a person is presumed to be innocent unless and until he is proved to be guilty and on the spot fines, Mr Speaker, are alright for offences which are considered to be of a not serious nature such as overstaying your welcome at a parking meter or parking where you should not or otherwise transgressing in a minor way the traffic laws to which Gibraltar is subject. But when we are speaking of more serious offences, Mr Speaker, then the fundamental

principle of innocent until proved guilty applies even more. Even the less serious offences for parking tickets, as has been quoted quite rightly, can be issued is always open to anyone. The same laws applies in England and someone can say "look I do not admit that I have committed the offence for which you have issued the parking ticket. You can take me to court and I will plead not guilty. If and when you prove that I am guilty of what you have accused me of then I subject myself to whatever penalty the Magistrates Court in that event decides to impose upon me". That however does not mean, Mr Speaker, that the question of giving a parking ticket, an on the spot fine, in that context takes away the right of a person who is accused of committing an offence from seeking to show that there is doubt that he has committed the offence and does procure for himself a finding in the Magistrates Court of not guilty of the offence with which he is accused and thereby escaping the question of having to be subject to any penalty whatsoever. But, Mr Speaker, we are talking about fines, maximum fines in this Bill totalling in a number of cases of £1,000, £2,000 and the like. Paragraph 18(a) with which I will deal with later is the Traffic Parking and Waiting Order and we are talking in circumstances where there is the potential of imprisonment for up to three months. You cannot, Mr Speaker, in the context of our Constitution validly issue, in my respectful view, parking tickets as something akin or similar to parking tickets in circumstances like that. We know and we recognise that there will be a number of non-Gibraltarian residents who no doubt will transgress the provisions and who will have their name taken and they will be reported and if and when a summons is issued against them they will have long gone from Gibraltar and the authorities will not be able to proceed with their case. However, Mr Speaker, let us put the Bill through as soon as it is practical and let us see how it works and let us put the meat on the bones with subsidiary legislation. When the teething problems are encountered then we will see in which direction we should go. The Honourable Leader of the Opposition has in effect, I think, made that suggestion and I personally agree with him and although it is entirely a decision of the Minister and not my decision in any way to suggest whether or not the Bill should be delayed I respectfully feel that the Honourable Minister is quite right to accede to the wishes of the Opposition to delay the Committee and Third Reading Stages of the Bill to ascertain and consider what if any amendments should be made. Now the Honourable Leader of the Opposition, Mr Speaker, referred to parking tickets in the context of what at one stage the then Commissioner of Police adopted as his policy supported by the then Attorney-General and then went on to refer to the fact that subsequently the incoming Commissioner of Police adopted a new policy as a result of which prosecutions or the issue of parking tickets ensued in circumstances where previously such parking tickets were not contemplated. Although the Honourable Leader of the Opposition did not say so specifically what I understood him to be implying

from his comment in that respect was that the then Attorney-General said he was powerless to do anything about the change of policy. Well with respect I do not accept that Mr Speaker. If there is a criminal prosecution it is always within the Constitutional power of the Attorney-General to terminate that prosecution and if in the event of someone, for example, dropping ash on the pavement or on the road, Mr Speaker and the prosecution without my initial knowledge had proceeded with the case then in those circumstances, I think, I would have very little hesitation in exercising my Constitutional powers to terminate the prosecution in those circumstances. If I did I would not then incur the displeasure of the Leader of the Opposition as I did in a different context a few months ago. I can only hope that that will be the case and as the Honourable Mr Montegriffo has said the de minimus principle might, and I agree with him, very probably apply in circumstances of that nature. The de minimus principle which probably non-lawyer members of the House have no knowledge of, Mr Speaker, so let me explain what that is. If, for example, I push through someone in a crowd, and I come into contact with someone then technically that is common assault, if I am caught in a speed trap in which the use of a radar or a gun or any other technical aids which police forces in various parts of the world have at their disposal for detecting the commission of traffic offences and particularly excessive speeding offences and I am clocked at one or two miles over the limit then it is open to any court before who I am prosecuted to say that my transgression was so slight and so trivial that they cannot with hands on their hearts really say that I have committed a criminal offence and it is within their power, in those circumstances, quite probably and lawfully to dismiss the charge against me. That is what the Honourable Mr Montegriffo was referring to and I totally agree with him that a technical transgression of this Litter Bill to the extent of merely dropping cigarette ash on the pavement or on the road would not in those circumstances, even if there was a prosecution, be likely to lead to a criminal conviction. And furthermore, Mr Speaker, if someone comes to my house and drops ash on my floor then I am not very pleased and I expect them to stretch out and put their cigarette ash in the ash-tray but if they are sitting in the Piazza or some other part of Gibraltar I do not expect them to have to walk several yards or perhaps even further to find a litter bin and put the ash there. In those circumstances certainly if that is all they did in contravention of the Ordinance then I personally would not be happy at all about sanctioning a prosecution knowing that the offence had virtually or absolutely no chance of resulting in a conviction. So I do respectfully support the views expressed by the Honourable Mr Montegriffo in those circumstances. Now the Honourable Leader of the Opposition took me a little by surprise, Mr Speaker, in his reference to paragraph 18(a) the Parking and Waiting Order. The Honourable the Chief Minister has often said, and reference has been made to this earlier today, that

he does not move fast enough at times in implementing his policies and I would like to think well in that the Attorney-General Chambers does move fast enough and if I can keep pace with the Honourable the Chief Minister well I am happy to do that Mr Speaker. If I can keep one step ahead of him well then I am absolutely delighted and it may well be that in putting a provision into the Litter Control Ordinance and referring to a paragraph of The Traffic Parking and Waiting Order which is not yet in force I am in effect, one step ahead of the Chief Minister. I can then claim credit and not discredit for that. The reason I say that, Mr Speaker, is, and I hope the Honourable the Leader of the Opposition will have any fears if he feels at the moment aggrieved by what I am about to say. I do not think that causes any problems because the first Clause of the Bill, Mr Speaker, The Title and Commencement provides that the Ordinance should come into operation immediately on publication but only will be operative when the Governor by Notice in the Gazette so declares and the different parts of the Ordinance can, if necessary, be brought into force on different days. So what that means, Mr Speaker, as the Honourable the Leader of the Opposition and indeed Members of the House generally will I am sure appreciate, is that so long as paragraph 18(a) of The Traffic Parking and Waiting Order is in force at the time that this Ordinance or more particularly the final Sub-Clause proceeding Schedule 1 of the Ordinance is enforced Mr Speaker, then there is no problem. If however Section or paragraph 18(a) of The Traffic Parking and Waiting Order is not in force at the time that this Ordinance or that part of the Ordinance comes into effect then obviously the penalties described by reference to paragraph 18(a) then have no effect whatsoever. We are however anticipating events which are likely to occur as the Honourable Leader of the Opposition was told when he spoke to one of the Crown Counsellors in my Chambers, and I do not envisage any problems. He is however quite right in raising the matter and I am grateful to him for doing so and I hope that I have allayed any fears which he feels in that regard. Now, Mr Speaker, the Honourable Mr Anthony raised the question "what happens if children are caught dropping litter in the streets"? Well let me say first and foremost, Mr Speaker, again as a resident of Gibraltar rather than as Attorney-General and more particularly as a parent myself, I sincerely hope that the residents of Gibraltar who have children and there are many of them, would have taken heed of the commercial we see every night on our television screens and for which, I think, the Honourable Minister must be commended and I hope that they will educate their children. It is to their advantage and to their benefit, as residents of Gibraltar, that it should be a place which is kept clean and that with their help and with their cooperation Gibraltar truly can become the jewel of the Mediterranean. I hope they will give their support in that way to the spirit and objects which this Bill seeks to achieve. If they do not, Mr Speaker, then again the law which applies to children generally who

commit criminal offences will apply to them in just the same way if any charge reaches the provisions of this Ordinance. Children under a certain age, Mr Speaker, are deemed to be incapable of committing an offence. For example if a four year old child eating a lollipop takes of the paper and drops it onto the road there is actually nothing that we can do about that because of the tender age of the child. However what do we mean by children, Mr Speaker? I think any young person up to the age of sixteen or seventeen is perhaps a child and certainly if we get a child, if I can call such a person a child at that age, dropping a cigarette packet or any other form of litter down on the pavement well to my mind, Mr Speaker, and to the Courts mind as well, I can assure this House, a child in those circumstances will be dealt with in the same way as a much older person would be. However, again, of course, discretion has to be exercised and I would expect those responsible for the enforcement of this Ordinance to exercise commonsense and discretion in circumstances like that and again the final outcome is my Chambers, Mr Speaker, and again my right to determine any prosecution which has been brought or to tell the Police or the Enforcement Authority "do not prosecute" if I feel the circumstances of the case, as reported to me, do not warrant a prosecution when the docket is referred to me. So I can assure the House, Mr Speaker, that in the enforcement of this Ordinance and certainly when the question of whether or not to bring a prosecution arises discretion, tact, diplomacy and most of all I sincerely hope sound commonsense will most definitely be applied. Now can I come back to on the spot fines, Mr Speaker, and generally the Honourable Minister is quite right that serious consideration was given to whether there should be a scale of fines and more particularly whether there should be a minimum fine which the Court would impose in the event of a conviction. I share the views expressed by the Honourable Minister and I have been subject many times where I have been disappointed by the lenient penalties which the Courts of Gibraltar have imposed in relation to convictions for all sorts of ranges of criminal offences, but Mr Speaker, the Judiciary must be left with discretion. I can well imagine this House, if I can endeavour to quote an example, thinking that throwing down a sweetie paper in Devil's Tower Road is perhaps very much less serious than someone who empties a dustbin outside of the Piazza or more particularly dare I say outside the Convent, and if you are going to have the same minimum fine in each case then that is going to take away any question of discretion which the Judiciary will then have. It is perfectly right and perfectly usual, Mr Speaker, to give the Courts a maximum fine, to limit the Courts powers and say that "you can do what you like, you can impose a maximum fine not exceeding £500, £1,000 or whatever, but if you think the circumstances warrant it, then you can impose something less and if you think in exceptional cases that the circumstances do not warrant any actual punishment being imposed upon the offender for that particular offence then you can give him either

the conditional or an absolute discharge. But it is most important, Mr Speaker, and it is constitutional too and good practice, in my view, for this House to leave the Judiciary with a discretion, to be able to deal with each individual case on its merits so far as the imposition of the penalty is concerned. Mr Speaker, the Honourable Mr Montegriffo also raised the question of jurisdiction, so far as the Ordinance is concerned, over the Ministry of Defence land. Now I see no problems there, Mr Speaker, and I can quite readily give the assurance the Honourable Member asked me to give that there is no problems with the Litter Authority to be established under this Ordinance exercising jurisdiction over MOD land. The definition of Gibraltar in the Interpretation and General Clauses Ordinance, Mr Speaker, as the Honourable Member knows is very wide indeed and covers the whole of Gibraltar. It includes Feetham's Beach also when it comes into operation fully and it includes also its Territorial Waters and an offence committed anywhere in Gibraltar within that definition, Mr Speaker, is described in the particular offence as an offence merely committed in Gibraltar and it is very rare indeed because it is not necessary in normal circumstances to allege the offence complained of has been committed in any particular place in Gibraltar, ie Main Street, Governor's Street or whatever. It is sufficient to particularise if the offence was committed in Gibraltar and then for the prosecution to establish that it has been committed anywhere in Gibraltar as Gibraltar is defined in the Interpretation and General Clauses Ordinance, so I see no difficulty in that respect. Mr Speaker, I am delighted to hear that all Members of the Opposition subject to their comments will support the Bill and in the interim period, in view of the Honourable Minister for Tourism having agreed to delay the final stages of the Bill, if any of the Honourable Members of the Opposition wish to make any representations to my Chambers or to the Minister or both I will most gladly consider any representations made with the view to improving and strengthening the terms of the Bill generally.

MR SPEAKER:

I now call upon the Minister to reply.

HON J E PILCHER:

Mr Speaker, there is no difficulty whatsoever on this side of the House to leave the Bill in abeyance and to look at all the matters that have been referred to by the Members opposite. That is not a problem but I am not sure what it is exactly that the Opposition want?

HON A J CANEPA:

Mr Speaker, we have no difficulty in dealing with the Bill at Committee Stage really. However, if the Government considers that there is any validity in the points that



have been made and which might lead them to think that they may wish to give further thought to the Bill then they ought to bring it back at a future date. There might also be organisations in Gibraltar that may wish to make some valid representations. The Bill has come to the House twelve or thirteen days after it was published and sometimes the public does not get to know about certain pieces of legislation until it receives a bit of an airing in the media and which may well happen after it is debated here. So, Mr Speaker, let the Government weigh up the circumstances. All that we in the Opposition can do is delay the Bill until tomorrow. So it is up to the Government to decide whether they wish to go ahead with the Bill or whether they wish to leave it for a future date and think about the points that have been made and whether any of them may require some amendments to be made.

HON J E PILCHER:

Mr Speaker, I will certainly try to clear most of the points that have been raised by the Members opposite. Mr Speaker, I think the last thing that has been said by the Leader of the Opposition is that he would like us to leave the Committee Stage until a later date but he is putting the onus on us whether we do it or not. I will try to be very brief because I think this Bill has taken up much more time than I thought it would. I honestly felt that this Bill which creates enabling powers, as was explained by the Honourable Mr Montegriffo and the Honourable Attorney-General, does not create anything other than our ability to regulate.

HON A J CANEPA:

Mr Speaker, will the Honourable Member give way? This is the only opportunity that we have to put certain points of view across. When the Regulations are enacted we are only able to ask questions or bring a Motion.

HON J E PILCHER:

I accept that, Mr Speaker, but basically the points that have been raised have been taken on board already. The definition of litter. Mr Speaker, not only do we have the comments of the Attorney-General but also that the definition of litter in this Ordinance has been copied from the definition of litter in the Litter Ordinance in the United Kingdom. Referring now to the comments made by the Honourable Mr Britto, Mr Speaker, we would not expect people to stand outside their doorstep at night with their litter bag because we all know that there is a system where an area is designated every morning for rubbish collection. Every morning the litter wagon collects the rubbish from those designated areas but I have seen people leaving plastic bags in the middle of Rosia Road, beside their car, as they get into their car to drive to work and that is not the route that the rubbish

collection vehicles take. So that would be treated as an offence. However somebody leaving their rubbish in Irish Town because they know that the lorry goes down Irish Town at six o'clock in the morning would not be an offence. It could be theoretically but I mean we are talking about leaving litter indiscriminately. Mr Speaker, Members opposite are talking about somebody dropping ash and being presented with a litter ticket. Mr Speaker, I must ask are we really interested in approving this Bill because we feel it is good for Gibraltar or are we trying to score political points?

HON A J CANEPA:

Mr Speaker, we are trying to be constructive and I think we have been constructive.

HON J E PILCHER:

I know that to a point they have been Mr Speaker. But we have really gone to the ridiculous by asking what is definition of an animal dropping? Mr Speaker, is it that Members feel that the Attorney-General's Chambers, the Commissioner of Police and other law enforcement bodies cannot act flexibly within the system? With regard to the public being aware, Mr Speaker, I have given interviews on television and radio for the last three or four weeks. That visitors may get away with it? That why not on the spot fines? We will discuss these points and we can monitor the position. At the end of the day it is up to the people of Gibraltar whether they want the litter ticket. My impression is that they do because it is the minority who cause the litter problem not the majority. The majority would realise, as is the case with the parking ticket where although people complain they realise that the traffic problem needs solving. The litter problem unfortunately needs a drastic approach if we are to have a clean Gibraltar. The question of publicity, of designated areas? Only two points have been raised and that is what effect there would be in MOD and Government controlled areas. Well, Mr Speaker, of course, once we regulate an area as a Litter Control Area everything within that area comes under it and secondly, Mr Speaker, is that we are trying to stop heavy goods vehicles parking in the public highway in specific areas. The mention of loading and unloading in the Bill is because when the police arrive and tell drivers to move away they say "we have been unloading and therefore the vehicle is there because of that purpose". That would mean that it would only be possible to park there whilst loading or unloading but not afterwards. I accept, Mr Speaker, that this Bill cannot be enacted, as the Honourable Attorney-General has said, until we have cleared Section 18 and in any case we can and we have the ability to move Section by Section. It will take some time to create the Regulations etc and by then we will get the feedback from the public, Mr Speaker, and if necessary we will not implement aspects of it. This Bill does, Mr Speaker, what everybody in Gibraltar



has been asking for and which provides the Enabling Powers for us to do it. Whether it is done or it is not done is something which we are prepared to live with. But Mr Speaker this Bill creates the Enabling Powers and I personally feel that we should take it through all its stages. During the preparation of the Regulations the points that Members have mentioned can be looked at and those that are constructive can be adopted. Others which were more related to somebody fining children or dropping ash, I think Mr Speaker, is taking matters to an impossible situation and the same could be said of any law. One could say that somebody is fined for careless driving and say what is careless driving? If the person is looking at his girlfriend, is that careless driving because he does not have his eyes on the road. I think, Mr Speaker, this creates the Enabling Powers it does not create anything else at the moment and I would urge, Mr Speaker, that we reach agreement and pass it. If not then I will hold it until the next House of Assembly.

HON P C MONTEGRIFFO:

If the Hon Member will give way I will clarify my own position. I said that there were two points that worried me; on the spot fines and Government property. In the light of the Government's undertaking that they will treat Government property evenhandedly with all others and if the Attorney-General is telling me, in this House publicly, that he thinks it is unconstitutional then I think we cannot pass a law with that advice. I just do not think it is an option, even if administratively, it makes sense. As far as I am concerned I am happy but I do not feel about it so strongly as to deny other Members, on this side of the House, their views on wanting to delay it if they feel so strongly about it.

HON A J CANEPA:

We do not want to delay it, Mr Speaker, we have no reason to delay it. We have taken a lot of trouble over the legislation. I regret the comments which the Honourable Minister.....

HON J E PILCHER:

Mr Speaker, will the Honourable Member give way. I did not intend that the comments that I made should be interpreted in the way that the Hon the Leader of the Opposition has mentioned. I suppose they sounded worse than I intended. The point I was making was that the arguments sounded ridiculous at some stages. I am not for a moment implying that the Opposition were not trying to be constructive. I suppose, Mr Speaker, that sometimes when one has worked hard at a piece of legislation and which perhaps has some failings like every other piece of legislation when one hears the Honourable Col. saying things like standing outside your door with a litter bag or dropping ash and being fined you become a little bit angry.....

HON A J CANEPA:

Mr Speaker, the difference is, with all due respect and the Honourable Minister must understand it, is that if any of the Members opposite feel like bringing up such points they do not do so publicly because they would do so when Honourable Members are discussing the Bill in Council of Ministers and that is the end of the matter. We, Mr Speaker, have to do it publicly. That is the difference, Mr Speaker, that what are relatively trivia in Council of Ministers never become public, but said in the House it does. That is the difference between their job in legislating and our task in legislating. I can however assure the Honourable Member that our approach has been constructive and it has been positive. It is in our Manifesto that we would introduce fixed litter penalties, but, as I say, I regret that he should have intimated that it was being done in order to make political capital. We have a job, Mr Speaker, in the Opposition and this has taken a great deal of time and effort. I think we had better not say anything more. We will support the Bill going into Committee and we will vote in favour at Second Reading, at Committee Stage and at Third Reading.

HON J E PILCHER:

Mr Speaker, I thank the Honourable Member for that and I take back the insinuation which, as I have said, was not meant as implying that they had not made an effort to be constructive or that they were really playing to the gallery. I was referring to specific comments within their overall contribution, Mr Speaker. I take it back.

MR SPEAKER:

There is no doubt that there is more litter than meets the eye.

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

HON J E PILCHER:

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

This was agreed to.

THE TOWN PLANNING (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Town Planning Ordinance and to make amendments consequential thereto be read a first time.

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill is in effect making preparation for the position of Director of Crown Lands to cease to be a public appointment and insuring that Statutory responsibilities are transferred. The principle Statutory responsibilities of the Director of Crown Lands occur in the Town Planning Ordinance. However the post is referred to in other Ordinances and that accounts for the number of consequential amendments that have been made to other Ordinances. I would take the House through these in detail. An opportunity has also been taken whilst the Ordinance is being amended to make other changes of more or less significance. For example, Clause 6 makes provision for substituting the Government for the Governor in responsibility for approving regulations made by the Development and Planning Commission in relation to advertisements. An amendment of similar significance is to increase the fines for offences against the Ordinance. This is contained in Clause 7. To reflect the fact that Town Planning is probably a function of the elected Government Section 30 and 31 of the Ordinance are amended to provide that regulations for the operation of the Ordinance can be made by the Government rather than the Governor and to remove the need to present such regulations for the approval of the House of Assembly. The significant provisions of Town Planning are contained in the Ordinance. Regulations made under the Ordinance are concerned with the mechanics of implementation. They are the provisions enabling us to process applications under the Ordinance and filling in details about the conditions to be satisfied therein. Another area of change of responsibility is that relating to areas which were formerly within the responsibility of the Director of Public Works. To reflect the re-allocation of these responsibilities, the Director of Public Works would cease to be a member of the Planning Commission. That is the effect Clause 10 which deals also with removing the Director of Crown Lands from being a member of the Commission. Going back to the question of replacing the Director of Crown Lands in relation to Statutory Duties you will see that throughout the Bill the words Town Planner or such other person as may be appointed for the purpose by the Government has been used. The intention is that where ever possible it is the Town Planner that these duties would transfer to. The additional words have been added to allow for the situation where for example the job title of the person holding these duties may change or whether there is a more appropriate person to whom to transfer such a duty. As a result of the intention to abolish the post of Director of Crown Lands a number of amendments have been made to other Ordinances. Clause 11 deals with the Civil Air Terminal Ordinance where the amendments relate to a situation in which plans are held and the warranting of the plans have been accurate. In the Income Tax Ordinance it is the

Town Planner or other persons appointed who would take over the duties previously carried out by the Director of Crown Lands in warranting that the project is of a particular kind for the purpose of the Income Tax Ordinance. Clause 13 transfers the duty of the Director of Crown Lands under the Land Acquisition Ordinance to administer the procedures of that particular Ordinance. Clause 14 is concerned with the Landlord and Tenant Ordinance. It would have the effect of removing the provision that in the absence of the person being appointed as Rent Assessor, the Director of Crown Lands would hold such a post that is being removed. It would therefore be necessary for the Governor to appoint a fit and proper person as Rent Assessor. The amendment in paragraph (b) of Clause 14 substitutes for the Director of Crown Lands the Town Planner or other person who would certify when structural alterations have been completed as required by an order made by the Rent Tribunal. Clause 16 deals with amendments necessary to the Public Health Ordinance. The majority of these are solely concerned with the place at which plans are held and the provisions that have been made for the plans to be held in the office of the Government. Sub-Clause 7 of Clause 15 is concerned with the operation of the Rating Review Board. It removes from the membership of the Board the Director of Crown Lands and replaces him with the Town Planner or other person and makes provision that the other members of the Review Board shall be independent of the Valuation Officer. Sub-Clause 8 deals with the charges for copies of documents relating to Land and Rating Lists. As you can see it merely substitutes more reasonable charges than those presently existed and in paragraph (b) it brings up to date the fine for an offence under the Section. The remaining Sub-Clauses are concerned with making specific provisions to allow the administration tasks under the Ordinance to be carried out by a properly appointed agent of the Government, not necessary by a Civil Servant. It does not require that such things be done by an agent, merely it makes the provision that they may be done by an agent. There are a number of printing errors in the Bill, Mr Speaker, and to deal with these, of course, I shall be moving amendments at the Committee Stage to which I have already given notice. One particular point that I wish to make at this stage is insofar as the Explanatory Memorandum, it would not be obviously appropriate to seek an amendment to the Explanatory Memorandum, but it would be helpful if I point out that errors were made in printing of this and the portion of the first paragraph within the Explanatory Memorandum appearing within brackets should read "The Civil Air Terminal Ordinance; The Income Tax Ordinance; The Land Acquisition Ordinance; The Landlord and Tenant Ordinance and the Public Health Ordinance". Mr Speaker, I 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 A J CANEPA:

May I make a point first of all, Mr Speaker, in the interest of trying to get moving quicker in Committee, that I think that there has been a convention in the past and adopted in the House that where there is a typographical error like a misspelling of the word "Ordinance", there is in fact no need to move an amendment to that particular clause. I think note is just taken of the typographical error and then the finished product appears correctly spelled. I notice that the vast majority of the amendments are of that nature and I do not think that the House needs to go laboriously through all. I think they can be taken as being typographical errors and that is the end of the matter.

HON M A FEETHAM:

Do I take it that you propose that we take it as having been read?

HON A J CANEPA:

Mr Speaker, that is what has happened in the House in the past. If they have been of a typographical nature then they are just noted. The Clerk notes it and ensures that the final product that goes to the printers is correct. We are going to abstain on this Bill, Mr Speaker, for one main reason. We have no difficulty about supporting all the provisions of the Bill except one and, in fact, insofar as the Director of Public Works is concerned, I can tell the Honourable Member that even though under the Town Planning Ordinance he is designated as being a member of the Commission, it is only in the days when Mr Mario Sanguinetti was also the Chief Planning Officer that the Director of Public Works used to sit as a member. When Mr Danny Barton was Director of Public Works it was Mr Michael Azzopardi, the Deputy Director, who was designated for the purposes of the Town Planning Ordinance as being the Chief Planning Officer. He was the member of the Development and Planning Commission and therefore that principle is one that we have used in the past and therefore there is no difficulty on our agreeing that there should be a person authorised by the Government to exercise the duties of Town Planner and that he should be the one who is a member of the Commission. However Honourable Members know that we have objections in principle to the abolition of the office of Director of Crown Lands for reasons that have been stated here in the past and therefore we cannot support that measure which involves a very substantial series of amendments. For that reason we will not support the Bill.

HON P C MONTEGRIFFO:

I will be voting against the Bill, Mr Speaker. In a sense because although we are prepared to accept that there

is a degree of rationalisation of the Public Sector that is necessary and we go back to the debate of the Estimates that took place this morning and early this afternoon. What I am not prepared to do is actually take Mr Feetham at his word that this Bill is the first step in setting the scene for the commercialisation of the function which the Director of Crown Lands basically now undertakes. If the Government had come to this House saying "this is what we intend to put in the place of these people who now undertake that function in a public capacity and in order to get that done we need to change all these other laws", then I would look at it on the merits of how the matter was going to be contracted out, and if it was contracted out in a way that was considered by me to be reasonable then I would have no difficulty in supporting it. The difficulty is a matter of principle, Mr Speaker, in giving the Government the ability now under this Bill that when passed it can go of and do what they are going to do without us getting to know what it is before the law is passed. The functions of the Director of Crown Lands are extremely critical. They are a very important function within the administration of Gibraltar by any standards. The whole question of Government lands are involved within the Director and it is a fundamental cornerstone of the public sector activity. One which has to be very very carefully regulated if there is going to be a wholesale contracting out, not just of his function, but the functions of his department which is what I understand to be the Government's thinking. Because of this it is not proper for me, and I think not proper for the Government, to seek that this House should pass a law allowing the Government to say "we are abolishing the Director of Crown Lands role, abolishing the responsibility that he would have with these functions and please give me carte blanche to go to such other person as shall be determined to undertake those duties". Mr Speaker without having a little more detail on what is involved it is not feasible or reasonable or practical for me to give my consent. As a result of this the only option I have would be to abstain or to vote against. I think that an abstention would not make sufficiently strong the point that I do not think it is right for the Government to come at this stage with this type of legislation. I will vote against the bill because we are being asked to vote very much in the dark. I reiterate, in conclusion, that had we had a proposal from the Government that this is the body that will take the responsibilities over or The Gibraltar Development Corporation or whatever, some sort of outline of the functions and how they intended to control it then I would have voted on the basis of the merits but not as it is presented at present. It is too important a function just to say "yes go along and do it and I will get to know later on".

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, I do not think I am going to take any more time of the House in explaining the reasons why we are doing this. I think they are very clear-cut. There are differences of view on the way forward on the commercialisation of some of the aspects of Government functions.....

HON P C MONTEGRIFFO:

Mr Speaker, will the Minister give way. I want to clarify this point for the record. I am not saying that I am disagreeing with the commercialisation of any function. This measure is an example of the style of Government and the way that we are being governed and what I am saying is that if we are going to commercialise an operation of this nature, a crucial operation, the style of Government which involves coming to this House and asking this House to allow you to get on with the job is not a style that I am prepared to endorse. I would say I am prepared to look at commercialisation on its merits. So the Government should come with a package of the proposals as to how the measures would work and state that in order to make it work it required the following changes in legislation. That, Mr Speaker, would allow Members to consider the merits of the proposals and if it made sense I would be prepared to endorse them. I am voting no to the idea of giving the Government the powers without knowing how they are going to use them.

HON M A FEETHAM:

Well Mr Speaker, nothing that the Honourable Member has stated is going to change our minds nor are we going to go into any more detail than we have already given. We have already made clear the reason why we are taking these steps to commercialise some aspects of what was termed to be Crown Lands Department. Insofar as the Property Management Portfolio of the Government is concerned and as a result of an initiative from the very employees that are going to be carrying out that function in the future. The rest of what was normally done within the set up of Crown Lands will continue to be under the Government set up. I have already said this when we were discussing the Appropriation Bill. The Building Control, Building Applications and Development proposals will continue under a new department inside the Government. So therefore old titles and the old style of running a particular concept are no longer in keeping with what we want to do. The Director of Crown Lands is something that is a Statutory appointment that used to be left there without any changes taking place for evermore and therefore what we are doing is moving forward on commercialisation and restructuring as far as my department is concerned. We are having a different setup to what we have had in the past and this piece of legislation is actually identifying the people that are going to be responsible, or a particular person,

in this case the Town Planner, in the main who is going to be responsible for the remaining functions that the Director of Crown Lands used to do apart from his portfolio on the Property Management side which will be commercialised. That, Mr Speaker, is what we are doing and I think that enough information has been given as to what we are doing. I have nothing else to say, 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 M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

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 Dr R G Valarino

The Bill was read a second time.

HON M A FEETHAM:

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

This was agreed to.

THE PRICE CONTROL (AMENDMENT) ORDINANCE 1990

HON M A FEETHAM:

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

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I am bringing this Bill to the House primarily to make the amendments contained in Clause 2 which will enable us to issue notices applying in Gibraltar to Directives of the European Community concerned with displaying of prices of goods. As the Ordinance presently stands such information can only be required to be displayed where a maximum price has been fixed for the goods. The effect of the amendment is to provide that we may require display of the unit prices for all goods whether or not any maximum price has been fixed. This is in effect the requirement of the Directives and when the Ordinance has been amended consideration will be given to producing notices applying the requirements of the Directive in as simple a form as it is possible. At the same time I am taking the opportunity to give more flexibility to the appointment of officers for the enforcement of the Ordinance. The Bill does this in Clauses 3 and 5. Clause 3 is concerned with the Price Control Ordinance and Clause 5 with the Weights and Measures Ordinance. The Weights and Measures Ordinance depends upon the Price Control Ordinance for the appointment of inspectors. What it in fact means is that the duty formerly given to the Consumer Protection Officer will now belong to the person who is appointed by the Minister for that purpose and the person so appointed will have the power in turn to appoint inspectors. Sub-Clause 2 of Clause 3 tidies up the Ordinance in the light of the changes made in Sub-Section 3 of Section 5. It in fact insures that the powers of the person appointed are spelled out in the notice appointing them. Because this method is to be adopted the Schedule is no longer needed. The Schedule currently lists the areas in which the Consumer Protection Officer can operate.

MR SPEAKER:

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

HON G MASCARENHAS:

Mr Speaker, normally to maintain consistency we would have either abstained or voted against this Bill for the simple reason that in the amendments to Section 5, the Government is going against the principle that we have been objecting to previously and that is, the dilution of the powers of the House of Assembly. Because basically Subsection 5 of Section 5 of the original Ordinance which is being omitted in the final sentence reads "the Governor may with the prior approval of the House of Assembly amend the Schedule by Ordinance. But in this case it may surprise the Government to hear that we will be supporting the Bill because we appreciate that in fact the amendment

of the Schedule is such a minor thing that we do not really believe that it needs to be brought to this House for an amendment. So we feel it is sensible for us to support the action that the Government is taking. We will therefore, as I say, be supporting it. The other relatively smaller point that I would like to make is the amendment to Section 3. In the last word of Sub-paragraph (a) of Sub-paragraph 1, the last word is the word "or". I would put it to Members opposite whether it is a typographical error and should it not be "and"? Otherwise the two Clauses do not make sense.

HON M A FEETHAM:

Mr Speaker, it is fairly open, in fact, as to the alternatives.

HON G MASCARENHAS:

You will find Mr Speaker, that in the original Sub-Section 3 the word is "and" as well. Anyway I leave it to the Government and to the Honourable the Attorney General to study it. It however seems to me that it needs to be "and" and not "or".

HON P C MONTEGRIFFO:

Mr Speaker, I will be supporting the Bill because as I understand it the principal reason for the Bill is the implementation of an EEC Directive though I take the point that it really follows on from the position taken by the Government on the Consumer Protection Department. I think the Bill is sufficiently outside what has occurred on that for it to be considered as a separate matter and it is really something that we would be required to do and something which therefore I will be supporting.

MR SPEAKER:

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

HON M A FEETHAM:

No, I have nothing else to say.

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

HON M A FEETHAM:

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

This was agreed to.

THE TRAFFIC (AMENDMENT) ORDINANCE 1990

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 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, I think that the Explanatory Memorandum attached to the Bill suffices other than if any Member of the Opposition raises any particular point which I shall then be happy to answer. I do not think I need to go into very great detail because they are minor amendments.

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:

Yes, Mr Speaker, in principle we will be supporting this Bill. We see that Clause 2 removes the anomaly by which the rather large van type of taxis could be classified as omnibuses and they will no longer be given that misinterpretation. We hope that the Traffic Commission will be as expeditious as the Finance Officer and his staff has been in operating as the Licensing Authority. We do notice that now Mr Martinez has died and it may possibly be some Spanish gentleman who will take over his place. It is a little bit of a regret that the Director of Public Works will no longer be on the Commission and it seems to be one more step in the diminution of the powers of the Director of Public Works but we will accept that it should be somebody else nominated by Government. We support the Bill.

HON P C MONTEGRIFFO:

We have no difficulty with the Bill, Mr Speaker.

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 EDUCATION (AMENDMENT) ORDINANCE, 1990

HON J L MOSS:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Education 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. I do not propose to speak for very long on this particular Bill, Mr Speaker, because this is essentially a tidying up exercise. It is continuing the spirit of legislation which was brought to the House some years ago and the only thing I would mention is that regrettably, because there seems to have been a slip somewhere, I have been forced to circulate a further amendment which I think Honourable Members will have seen this morning. I will of course answer any queries which Members might have in my right to reply.

MR SPEAKER:

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

HON G MASCARENHAS:

Mr Speaker, the Opposition has no difficulty in supporting the Bill. Although this is not the Brussels Agreement, we do however wish to enter a reservation and that is that we sincerely hope that this Bill will not apply to the nine Indian children. That, Mr Speaker, is for the record. For the future we are quite happy to support the Bill. We understand that following the controversy of the Indian children that has taken place today then under the circumstances once this Bill becomes law it might have an effect on those children if the matter has not been resolved between now and then.

HON CHIEF MINISTER:

As far as we are concerned, Mr Speaker, what the law does is that it limits the obligation on the Government to provide free education to people who have been given the legal right to be in Gibraltar and not to people who are visitors passing through Gibraltar. By the time the law is implemented and this will probably come into effect for the new academic year in September, either the Indian children will have ceased to be visitors or they will have ceased to be in Gibraltar obviously.



HON P C MONTEGRIFFO:

I will support the Bill. My understanding is that the Bill enhances the rights of people in the position like the nine Indian children or at least potentially enhances the position rather than that it takes anything away from them. I think what it does is that it sets, as I understand it, a clearer framework as to who is entitled, as a matter of right, to free education in Gibraltar. So if somebody turns up and is just en passant then does not get it. However somebody who is validly residing in Gibraltar or his parents are validly residing in Gibraltar would then have a right to free education. As far as I see it that is the extent of the position. It clarifies exactly who would be permitted to have education as a matter of right and on that basis I support it.

MR SPEAKER:

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

HON J L MOSS:

Mr Speaker, just to confirm what this is doing is essentially clarifying the position and actually enhancing the rights of the children who are residing here and if the Honourable Member opposite does not feel it is all a plot to do away with the right of anybody in particular and wants to enter a reservation I would be delighted. I commend the Bill to the House.

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

HON 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 FIREARMS (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Firearms 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. Mr Speaker, the principal reason leading

to the presentation of this Bill to the House stems from Clause 5 of the Bill which seeks to amend Section 6 of the Ordinance and Subsection 4(a) thereof in particular. A short while ago, as Members may recollect, a Scandinavian gentleman arrived by boat in Gibraltar and the boat was found to contain a considerable quantity of guns and ammunition. He was charged with being in possession of the guns and ammunition without holding valid certificates or permits. He pleaded not guilty and relied upon the Statutory defence that the firearms and ammunition found on the ship were part of the ship's equipment. The Court found him not guilty despite the large quantity of weapons and ammunition involved. The result of that case, Mr Speaker, demonstrated that the provisions in the Ordinance to which I am referring did not achieve the desired objective when initially enacted and the insertion of the words "reasonably necessary for the protection" which I now seek to make will hopefully satisfactory cover such a situation if it should arise in the future again. Clause 5 also seeks to amend Subsection 12 of Section 6 by increasing from £20 to £500 the maximum fine which can be imposed against any person who makes a false statement for the purpose of procuring the grant of a permit. The remainder of the Bill, Sir, also merely updates the existing penalties. Clause 2 amending Section 3 deals with purchasing or possessing firearms or ammunition without a certificate. Clause 3 amending Section 4 relates to breaches of obligations where a certificate is revoked or a person makes a false statement for the purpose of procuring the grant variation or renewal of a certificate. Clause 4 amending Section 5 updates certain fees payable on the grant renewal of variation in certificates. Clause 6, which amends Section 8 of the Ordinance, relates to production of certificates. Mr Speaker, the rest of the Clauses in the Bill updates the penalties for the various other offences in the Ordinance of a somewhat less serious nature than I have individually mentioned and I do not propose to go through each and everyone of them individually and thus take up unnecessarily, I think, the valuable time of this House. If there are any specific questions which Members on either side wish to raise, I will do my best to answer them when I exercise my right of reply. Mr Speaker, the Ordinance came into effect as long ago as August 1958 and as far as I can see the penalties do not appear to have been updated since then, I think that after thirty two years a revision is long overdue and I hope it will be welcomed by Members on both sides. 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 LT-COL E M BRITTO:

Mr Speaker, the Official Opposition supports in general principle the Bill as presented and although the fines

have been increased considerably, we feel that with regard to firearms the control of importing them is of paramount importance and therefore fines within reason can never be too large. This has been borne out by the recent incident at Varyl Begg Estate and the ease with which air weapons especially can be bought in Spain without a license and then imported or smuggled into Gibraltar. So therefore the importance of the deterrent cannot be under-estimated. I should have, Mr Speaker, before I started my intervention have declared an interest in this matter. In fact I declare two interests, one of a sporting nature and the other of a commercial nature. It does seem to us however, Mr Speaker, that the opportunity could have been taken to update the Firearms Ordinance at the same time and not just with regard to the question of the size of the penalties and the fines. Indeed as referred to by the Honourable the Attorney-General the amendment has been made to prevent excessive weapons on board a ship but the Ordinance itself is considerably outdated. If I can give Members a couple of examples. It is possible under the Ordinance in Subsection 7 of Section 5 for a person to be exempted from holding a Firearms Certificate if he is conducting or participating in firing on a miniature rifle range. He is able on those occasions to use a .22 rifle without a Certificate. Similarly we have a rather vague definition in this case of what a firearm is. It does say it is a lethal barrel weapon of any description from which any shot, bullet or other missile can be discharged. Then we have the rather ridiculous exemption in Sub-paragraph 9, again, of Section 5 that any person may without holding a Certificate have a firearm in his possession at an athletic meeting for the purpose of starting races at such a meeting. So, Mr Speaker, if he points his starting firearm in the wrong direction the race is over before it starts. A final example, and I have only glanced through the Ordinance rather quickly, is in Subsection 2 of Section 36 where a person can purchase an antique firearm as a curiosity or ornament. So if a firearm can be judged to be sufficiently old then even in a working state, and therefore lethal, can still be held without a licence, subject to the Attorney General feeling otherwise. The final point I would make, but I may come to it in more detail at the Committee Stage if necessary, is in the amendments to Clause 31. There is an amendment as to the size of the fine applied to Section 31 of the Ordinance. However Section 31 says in Sub-paragraph 1 that "no person shall without first obtaining the permission in writing of the Deputy Governor import into or export from Gibraltar any firearm or ammunition". Now, Mr Speaker, whilst that makes sense in the way the law was written originally when firearms were being imported in Gibraltar or exported, we now have a situation in Gibraltar which is peculiar to frontier towns and which is that both sportsman and people who hunt or participate in clay pigeon shooting in Spain move across the border frequently carrying firearms into Spain and back into Gibraltar. They are legally entitled to this because they have a valid firearm Certificate. They use these firearms in Spain for sporting

purposes, for say possibly a matter of hours, but because technically under the letter of the law they are exporting and importing the firearm everytime they go into Spain and back they have to go through a rigmarole of paperwork. It requires the permission of the Deputy Governor, confirmation from the Police, control at the Customs when they go through. It is all a lot of bureaucracy which is out of step with the situation as it is in UK where the firearms Certificate itself is the only controlling document. The Firearm is under the control of the Police and therefore the owner is answerable to the Police and not to the Customs or the Deputy Governor's Office. It is also out of step with a European Community Directive which is at the proposal stage, at the moment, and which is due to come into effect by the end of next year and in which the relevant section is intended to meet the following criteria. Sportsmen and marksmen would be entitled to travel to other Member States with their weapons on condition that they possess a European Firearms Certificate and that they can establish the purpose of their journey, ie game shooting, competition etc if called upon to do so in the country being visited. So in other words, Mr Speaker, unless we bring our own legislation up to date we may find the rather ludicrous situation where local sportsmen are going to have a European Firearms Certificate and be able to go into Spain without even declaring their weapons at Customs and yet need an Import and an Export Licence to move in and out of Gibraltar. Thank you, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, and without making an analysis of the need of perhaps updating the Ordinance as a whole, which there may be a case for, I want to concentrate just on the principal amendment which I understand that the Attorney-General is concerned about and which is the inclusion of the words "reasonably necessary for the protection" after the word "equipment". As I understand it what that would be saying is that if possession of a firearm was reasonable because the nature of the equipment was such that it was reasonable to have a firearm to protect that equipment, then that would be allowed with exemption. If that is correct, Mr Speaker, the only point that I would seek to make is that surely that must be questionable as a matter of principle, because what you are really saying is "if you have equipment that is above a certain value or is of a certain nature, then there you can have a firearm and you are exempted, but if you have equipment that is not worth that much you may not be exempted. What we are really saying is that if you come in a yacht, which I think is the Swedish example? And you happen to have in a safe jewellery and diamonds and things like that but which are not equipment you are not exempted. However if you have very expensive equipment, a helicopter or whatever on your vessel then in that situation a person can actually have a firearm. Maybe I have not understood

the criteria completely but surely the reason you would have a firearm would be for self protection and it would be rather like having a situation where in a household if you have contents of more than a certain value you can have a firearm but if you have less than a certain value you do not have a firearm. If that is what is being proposed here I do not fully understand whether that is right as a matter of principle. However anything that protects the Community from the use of firearms we support and therefore I will be voting in favour. It however seems to be that the criteria on which we are basing the exemption on is perhaps not quite right.

MR SPEAKER:

The Honourable the Attorney-General perhaps would like to reply?

HON ATTORNEY-GENERAL:

Yes, thank you, Mr Speaker. Perhaps I can deal firstly with the point raised by the Honourable Mr Montegriffo. I think with respect he has misunderstood, Mr Speaker,

What Section 6 of the Ordinance will then provide for, Mr Speaker, if the amendment contained in the Bill to which the Honourable Member has made reference is in fact passed, will read "any person may without holding a certificate have in his possession the firearm or ammunition on board a ship or a signalling apparatus or ammunition therefor on board an aircraft or at the aerodrome is part of the equipment and then with the amendments Sir, reasonably necessary for the protection of the ship, aircraft or aerodrome. So what we are talking about, Mr Speaker, is if for example a ship, I daresay we are talking about two examples. If for example a ship is in distress, is sinking or liable to sink or it has some mechanical difficulty, then obviously of course it is not unlawful to have a flare gun which might fall within the definition of a firearm but it is reasonable that a ship should carry a flare gun or a distress gun to enable signals to be given in time of distress when it needs assistance from other vessels or assistance from other sources. Similarly, Mr Speaker, although very happily piracy on the high seas is an offence which has not taken place, at least as far as I know in Gibraltar waters for some very considerable time indeed, there maybe circumstances where a ship is perhaps under attack and obviously of course a ship in such circumstances is entitled to defend itself, and it may well be Mr Speaker that if you have a vessel the size of the QE2 or the size of the Canberra perhaps going down the scale a bit, a number of guns and ammunition would not be unreasonable for the protection of a vessel of that size. But if you have a fairly small craft such as the one which figured in the case that I have mentioned, and which has led me to move this amendment, which carries something which I can

only describe as akin to an arsenal, then that clearly, Mr Speaker is not necessary for the protection of a ship, and the words "reasonably necessary for the protection", so far as the Court is concerned in relation to any prosecution brought for breach of the provisions of the Ordinance denotes, as I am sure my Honourable and Learned friend opposite me being a fellow lawyer will fully understand, it poses upon the Court a duty to apply the object of test. Is it in fact, never mind what the defendant in that case might think honestly, but is it as an object of test, objectively looked at as necessary for the protection of the particular vessel involved. Now that is what the Ordinance is seeking to do, Mr Speaker, to clarify, to whiten if you like, the grey area which seems to have existed hitherto and which led the Magistrates' Court to my disappointment to dismiss the charges in the case to which I have referred. Now Mr Speaker, if I can turn next to the observations made by the Honourable Lt Col Britto and deal with those as best as I can. Section 36, Mr Speaker, has been referred to and that imposes the exemption in respect of firearms to antiques. It is lawful to sell antiques. You might need a licence under the Trade Licensing Ordinance, of course, to do that in Gibraltar, but assuming that you have that and you are otherwise lawfully entitled to sell then there is nothing wrong in exercising your right to do just that and you are not reaching the provisions of the Firearms Ordinance. Similarly, Mr Speaker, the Honourable Member is quite right in saying that there is no breach of the Ordinance if someone who is engaged in commencing a race is in possession of a firearm in the sense of the definition given in the Ordinance if he sticks it into the sky, at least I sincerely hope that he does not point it at any person, and he fires it for the purpose of starting the race. But, Mr Speaker, I do not see, with respect, to the observation that the Honourable Member has made that the continued existence of either of those provisions even though thirty two years old necessitates any amendments at this stage. One has to look at the objectives of the Ordinance, as contained in The Long Title, and the Ordinance is and I quote, Mr Speaker, "to consolidate the law relating to the purchase, possession, manufacture and sale of firearms and ammunitions and other transactions". So that is the object of the Ordinance and one has to look at the Ordinance as it exists today and ascertain as best as one can what amendments are necessary in the light of circumstances which have taken place since the Ordinance was enacted initially to see what amendments are necessary nowadays and with that test in mind, Mr Speaker, I do not respectfully accept the Honourable Member's contentions that the Ordinance in respect of those two matters needs amendment. So far as the .....

HON LT-COL E M BRITTO:

Will the Honourable Member give way?

HON ATTORNEY-GENERAL:

Yes, I will.

HON LT COL E M BRITTO:

I think possibly the Honourable the Attorney-General misses the point of what I was trying to say and which was very simply that as the Ordinance was being amended the opportunity could have been taken to make further amendments and I illustrated Section 36 and Section 9 as examples of loopholes in the Ordinance which could be used unscrupulously. The Honourable Member says that antique firearms may be sold without breaching the Ordinance which I accept, but the point that I am making is that because a firearm is an antique it does not mean that it is not a lethal weapon which can be used for criminal purposes or for anything that the Ordinance does not envisage. For example the European Legislation will read "that where such an antique firearm is purchased or is in the possession of a person, the weapon should be disabled in such a way that it cannot be used". But as it stands there is nothing to stop the antique being used as the equivalent of a new weapon.

HON ATTORNEY-GENERAL:

Yes I take on board the points that the Honourable Member has made, Mr Speaker, but with respect I cannot accept that he is correct in what he says. If someone is a licensed and authorised antique dealer, Mr Speaker, then he is licensed and authorised to sell antiques. If someone is going to use a firearm for an unlawful purpose then I cannot imagine that he is likely to go along to an antique dealer and buy a 17th century weapon for the purpose of carrying out his unlawful objectives. If that has ever happened in Gibraltar well by all means acquaint me with the facts of the case concerned and then I will consider suggesting to the Commissioner of Police, who is primarily responsible for the administration of the Ordinance, and to the Honourable the Chief Minister that further amendments should be made. But I am not at this moment aware of any circumstances of that nature which have ever occurred. Mr Speaker, so far as the cross frontier Import and Export of Firearms are concerned, I think that there is merit in what the Honourable Lt Col Britto has said but I am still not convinced that an amendment arising from that is necessary. I do take very much account of the fact that Section 31 of the Ordinance imposes severe penalties for breach of the provisions of that Section which as the Honourable Member has said requires the obtaining of the Deputy Governor's permission to for example, as it has been suggested, take weapons into and out of Spain. It may well be for innocent and perfectly lawful purposes but one has to look, I suggest Mr Speaker, at Section 31 in conjunction with Section 4 and the Commissioner of Police has the power to grant, renew, vary or revoke a permit or certificate and in doing so at any time when

he exercises those powers, he can attach such conditions to that as he thinks are necessary and appropriate. It seems to me, Mr Speaker, that if anyone is seeking to obtain a permit to be lawfully in possession of a firearm and/or ammunition and he is doing that with the intention of taking that gun or ammunition into and out of Spain on a regular basis then for the purpose of enjoying the perfectly proper and lawful pastime which I know the Honourable Member opposite does enjoy as often as he can and there is nothing wrong in that, then it seems to me that it would be perfectly lawful for the Commissioner of Police to attach as a condition to the issue of the permit or renewal of the permit a power, to do that. And if he did so that would, it seems to me, obviate the necessity of seeking the Deputy Governor's formal permission for each and every individual exportation and subsequent re-importation back into Gibraltar which unfortunately I can see the Honourable Member is subject to every time he pursues his leisure activities. But it is a point that I think should be kept in mind for the future. I do not propose to move any amendment to that effect when the Committee Stage of the Bill is gone through at this stage, but it is a point I will bear in mind and look at in the future.

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 MARRIAGE (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Marriage 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. Mr Speaker, it is my privilege to present this Bill. Why I am not absolutely sure. I do believe personally in the institution of marriage and if for no other reason except that, I was pleased to accept the invitation of the Honourable the Chief Minister to present this Bill. It is I hope, Sir, a Bill which Members will find straightforward and the purposes that the Bill seeks

to achieve are set out in the Explanatory Memorandum. Clause 2 amending Section 10 equates the fee to be paid for administering Certificates without paying for a Registrar Certificate under Section 19 of the Ordinance. Clause 3 which amends Section 11 relates to the Registrar's Special Certificate and seeks to impose a requirement for affidavits to be made by both rather than as at present merely one of the parties to the intending marriage. Clause 4 which amends Section 13 relates to Special Licences and the amendments sought to be made to enable persons who wish to marry in places of worship under the Jurisdiction of the Anglican Bishop to Her Majesty's Forces to do so under the authority of the Bishop's licence as is the case in respect of other churches in Gibraltar. Clause 5 amending Section 21 of the Ordinance extends the permitted times for the solemnization of marriages in respect of churches. In Clause 6 amending Section 22 effects a similar amendment in respect of marriages which take place before the Registrar. Mr Speaker Section 30 is perhaps the most important amendment, that is effective by Clause 7 of the Bill and extends the defences available to a charge of bigamy to persons whose previous marriages have been annulled in circumstances where such first marriage was merely voidable and not void. Let me briefly expand on that Mr Speaker. If two parties for example contract a marriage and they are within the prohibitive degrees in consanguinity or affinity then a marriage is deemed to be void and has no legal or valid effect whatsoever. But if for example two persons contract a marriage and then subsequently the marriage is never consummated because one of the parties is either incapable of consummating it or wilfully refuses to do so, then it is open to the party aggrieved by the fact of non-consummation to seek a decree of annulment of the marriage. But unless and until he does so and unless and until the Court pursuant to the presentation of a petition for annulment of the marriage grants them a decree of annulment, then the marriage is valid and remains valid until such time as the Court sets it aside. That, Mr Speaker, again I am sure the Honourable Mr Montegriffo understands that is the difference and for some reason which I cannot explain the fact of voidable marriage has hitherto been omitted from the provisions of the Ordinance and only came to my attention when I was going through the Ordinance to effect the other amendments contained in the Bill. Now Clause 8 of the Bill Sir, replaces Schedule 1 which updates the list of places of worship where marriages can lawfully be carried out and the final Clause, Clause 9 effects a minor amendment to Schedule 3 by omitting the list of authorisations of the registration of buildings for the solemnization of marriages in view of the repeal and replacement of Schedule 1. Mr Speaker, the Ordinance was enacted as long ago as November 1948 and came into operation in March 1949. It has undergone very little amendment indeed since those days and again after a period of more than forty years is, I hope Members of the House on both sides will agree, ripe for an overhaul. 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:

The Attorney-General has clarified the only point in which I needed clarification Mr Speaker, which was the amendment to Section 30 Clause 7 dealing the question of annulment. That has been satisfactorily explained, therefore we can support the Bill.

HON P C MONTEGRIFFO:

Mr Speaker, I do not think the question of the fees was actually touched on. Maybe I missed that, maybe I was involved in an exchange. As I understand it the fees are a business potentially for Gibraltar of people who are getting married, but is there any indication of what type of fee the Government has in mind or is it, as I understand it at present, just going to be the fee for issue of Registrar's certificates, whatever that is. Marriage is a matter of rights and we should not pay too much at least for residents and I understand that it is a business spin-off for people who come here and, I think, that if people come here and expect within 24 hours or 48 hours to actually marry, then I think that they should pay for that privilege. But I would like to see perhaps a two tier system whereby if you are a normal local resident and you get married then I do not think why you should be charged the same fee as somebody who comes in and wants to get married quickly. I am being told, Mr Speaker, that that is something for which you need the Governor's licence and then that is presumably the fee which we introduce under that heading. Is there some indication as to the fees?

MR SPEAKER:

If there is no other Member who wishes to speak, I will then call on the Learned Attorney-General to reply.

HON ATTORNEY-GENERAL:

Yes thank you, Mr Speaker. I am grateful to all Members of the Opposition for their support to the Bill and I am happy to have clarified the point that hitherto was troubling the Official Opposition. So far as the Honourable Mr Montegriffo comments are concerned Mr Speaker, I am authorised by the Government to say that the question of fees will be taken on board when the question of the exact amount of the fees is determined in due course. At this present moment the fee to be charged has not been determined.

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 POLICE (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Police 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. Mr Speaker, this may well be the shortest Bill ever presented to this House. Its purpose will I hope be obvious from the Explanatory Memorandum. All it seeks to do Mr Speaker, is to effect the removal of the word "security" from Section 51 Subsection 2 of the Ordinance and to equate by reason of Section 51 Subsection 1, the position of the Gibraltar Services Police with that of the Gibraltar Police Force, so far as their powers, privileges, liabilities and immunities are concerned. However the House will appreciate of course that the Gibraltar Services Police only function on those specific areas or locations in Gibraltar which the Governor has designated or does designate from time to time.

HON A J CANEPA:

By notice in the Gazette?

HON ATTORNEY-GENERAL:

Yes, by notice in the Gazette. The important distinction between the two forces remain, Sir, namely that such powers, privileges, liabilities and immunities only apply to the Services Police when they are actually on duty as such. Section 17 of the Ordinance however provides that Members of the Gibraltar Police Force shall be deemed to be always on duty when required to act as such. Thus, Mr Speaker, the clarification of those Police Officers in the employment of the Ministry of Defence so far as their powers and duties etc are concerned will enable them to act in their own areas in matters not only affecting security but generally. I am able to say, Sir, that the Bill is welcomed by both the Ministry of Defence and the Commissioner of Police in Gibraltar and I hope also will receive the support of both sides of this House. 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:

No problem, Mr Speaker, we support the Bill.

HON P C MONTEGRIFFO:

Mr Speaker, no problem in principle but I wonder whether the Attorney-General can clarify if there is a specific issue or circumstance which has given rise to this as a problem which requires redressing and if so it would be useful, I think, for this House to be appraised of the background to this smallest of amendments. Secondly in a technical sense would I not be right in saying that it really involves the clarification of an actual extension of responsibility of the civilian police in a sense? De facto they have been undertaking duties in the areas in question and that the amendment is only to clarify that their jurisdiction is not in doubt by any authority or any party. If that is the case then I imagine that we are not talking about any extension of the Gibraltar Police Force actually having anything more to do. It is just a matter of formalising what exists. Is that something which the Attorney-General can disclose to the House?

HON ATTORNEY-GENERAL:

Yes I can.

MR SPEAKER:

If no other Member wishes to speak I will call upon the Honourable and Learned Attorney-General to reply.

HON ATTORNEY-GENERAL:

Yes Mr Speaker, again I am grateful to all Members of the Opposition for their support to the Bill and I can and will be happy to deal with the observations the Honourable Mr Montegriffo has raised. Yes Mr Speaker, there have been incidences of the burglary of MOD premises within one or other of the areas designated by the Governor in which the Gibraltar Services Police have jurisdiction. Now Mr Speaker, an issue has arisen on more than one occasion comparatively recently as to the lawful jurisdiction of the Services Police to immediately act in circumstances of that nature. If for example as the law at present stands, a Services Policeman comes across a situation where someone is in the course of perpetrating a burglary of MOD premises comprised in an area where they have jurisdiction but at present only respecting security can they act because the burglar is effecting security or is he simply perpetrating an offence of dishonesty which has nothing whatever to do with security.



And if they do effect the arrest of a person in such circumstances, is the arrest lawful or is it unlawful. If they are in doubt, should they let the man go and summon the assistance of the Gibraltar Police Force in the hope that that man subsequently will be tracked down, recognised by them and their identification evidence will be accepted subsequently in Court if the prosecution ensues. Well Mr Speaker, I do not like that state of affairs at all and neither does the Commissioner of Police and neither does the Ministry of Defence and my policy in putting forward any legislation of a criminal nature or effecting the area over which I have responsibility as Attorney-General is and always has been and always will be as long as I hold office, let it be said, now rather than potentially sorry later. It is for that reason and bearing in mind and with that hindsight, Mr Speaker, that I want to be safe rather than sorry and I want to be able to run no risk of the Gibraltar Services Police being able to act lawfully and promptly as and when the situation requires. If this amendment is accepted by the House, Mr Speaker, and goes through they will do that not only with the blessing of the Ministry of Defence, but with the blessing of the Commissioner of Police and his force in Gibraltar who sees it as a complimentary power to their already overstretched workload to which they are subject at the present time.

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 INCOME TAX (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Mr Speaker 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. I shall be brief Mr Speaker. In bringing forward the Building Societies Amendment Ordinance 1990, passed by the House in February, the Government intended the Building Societies authorised in a Member State of the European Commission should be able to come to Gibraltar

and operate under local conditions. Under the terms of the Income Tax Ordinance the first £600 of interest on investment in Building Societies which are incorporated and registered in Gibraltar is free of a liability to be taxed. The Government wishes to extend this incentive to investors to cover the new category of societies which are authorised in the European Community and which will be known as Recognised Societies. This requires the amendment to the Income Tax Ordinance now before the House. 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 have no difficulty with this Bill and we shall be supporting it.

HON P C MONTEGRIFFO:

Mr Speaker, I will assume however that the Bill in a sense only follows what we have to do anyway. It is just a matter of interest that I am sure the Financial Secretary could help the House in understanding, I would have thought that in bringing the Building Societies in the way that it is envisaged and the very welcomed step that is, that we could not discriminate in a provision that way, I am not sure, whether that is the case or not. But even if that were not to be the case, certainly the extension would seem reasonable to them.

HON CHIEF MINISTER:

There is no requirement under Community Law because there is no Directive under community Law on harmonisation of tax treatment, but to us it seems logical that if you are going to say to a Building Society as we have already done that if they are already incorporated in the UK or somewhere else in the Community, they do not need to establish a Gibraltar Building Society as a subsidiary, they can actually simply be recognised on their originating licence that we should treat them the same as if they had gone through the process of registering in Gibraltar for tax purposes and that is essentially what we are doing.

HON P C MONTEGRIFFO:

I understand that. But surely, with respect, to the position here, it is not the tax harmonisation of the Building Societies at all, it is the tax suffered by the individual. We are looking at the individual's tax position not the Building Societies tax position and the rules I was alluding to, but I know probably it is academic interest only, but I am interested in exploring it. Is

that in the rules of distorting competition generally which would apply on a broader scale. Let us say, Mr Speaker, you have a Gibraltar Building Society marketing to the public, as they do, and you deposit with them and you have six hundred pounds free of interest. I just raise the position that somebody comes in to compete in deposit taking and has the disadvantage because they could not have the first six hundred pounds tax free. That is the sort of area I was trying to say and I am sorry if I was not clear enough on it.

HON CHIEF MINISTER:

Mr Speaker, it would not in fact follow because in fact by virtue of the legislation that we have already passed we have given the power to Building Societies incorporated in other Member States to provide services which they are entitled to provide by their originating licence, which we do not necessarily allow in our own Building Societies to provide. So in fact one could argue that a Building Society incorporated in the United Kingdom is a different animal from a Building Society incorporated in Gibraltar and therefore will get different tax treatment. The issue from our point of view is not that we have been advised that we need to do this, it is just that it seems to us a logical extension of the welcoming pact that we are putting out to the Building Societies.

MR SPEAKER:

If no other Member wishes to speak I will call upon the Honourable the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have nothing further to add, Sir, and 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 be taken at a later stage in the Meeting.

This was agreed to.

MR SPEAKER:

Well, I think for more than one reason we are going to recess for twenty minutes.

The House recessed at 5.20 pm.

The House resumed at 5.45 pm.

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 Christian Brothers Property (Amendment) Bill, 1990; The Gibraltar Coinage Bill, 1990; The Immigration Control (Amendment) Bill, 1990; The Bankruptcy (Amendment) (No.2) Bill, 1990; The Gaming (Amendment) Bill, 1990; The Appropriation (1990/91) Bill, 1990; The Specified Offices (Salaries and Allowances) (Amendment) Bill, 1990; The Litter Control Bill, 1990; The Town Planning (Amendment) Bill, 1990; The Price Control (Amendment) Bill, 1990; The Traffic (Amendment) Bill, 1990; The Education (Amendment) Bill, 1990; The Firearms (Amendment) Bill, 1990; The Marriage (Amendment) Bill, 1990; The Police (Amendment) Bill, 1990; and The Income Tax (Amendment) Bill, 1990.

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

THE CHRISTIAN BROTHERS PROPERTY (AMENDMENT) BILL, 1990

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

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

THE GIBRALTAR COINAGE BILL, 1990

Clauses 1 to 6 were agreed to and stood part of the Bill.

Schedule

HON M A FEETHAM:

Mr Speaker, Part 1 of the Schedule is intended to be amended purely to correct an omission in the standard sizes that are going to be used for the coins, in terms of the mixture of the metal. So either we can take it as read or I can repeat it. Can I take it as read?

MR SPEAKER:

We will take it as read.

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

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

THE IMMIGRATION CONTROL (AMENDMENT) BILL, 1990

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 BANKRUPTCY (AMENDMENT) (NO.2) BILL, 1990

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 GAMING (AMENDMENT) BILL, 1990

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 APPROPRIATION (1990/91) BILL, 1990

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

MR CHAIRMAN:

Now I suggest that we go through the Schedule and then we come back to Clause 2. So in other words we are going to go through the Estimates.

HON A J CANEPA:

I suggest that I give an indication Mr Chairman, to expedite matters of those Heads where we have no questions so that the Heads can then be called together.

MR CHAIRMAN:

If the Honourable Mr Montegriffo can do the same it might help.

HON A J CANEPA:

I have consulted with him. We have no questions on Head 1 or Head 2.

Head 1 - Audit was agreed to and stood part of the Bill.

Head 2 - Customs was agreed to and stood part of the Bill.

Head 3 - Education and Sport

Personal Emoluments

HON G MASCARENHAS:

Mr Chairman, this morning during my contribution I mentioned that the Minister for Education should give me some explanation as to why in reply to Question No.49 of 1990, he was not more forthcoming in his reply. Mr Chairman that very same morning this document, the Estimates of Revenue and Expenditure, were laid on the Table by the Government and I questioned the Honourable Minister on three posts within his Department and whether these posts had been abolished. The Honourable Minister for Education

was to say the least very cagey. I would therefore be very grateful if he could please give the House an explanation as to why, having regard to the fact that the Estimates were available that morning, although confidential, the Hon Minister did not give me more forthcoming answers?

HON J L MOSS:

Well, Mr Chairman, the answer is a very simple one. The fact of the matter is that on the date when the Honourable Member asked me the question those posts had not been abolished.

HON G MASCARENHAS:

Mr Chairman, I think that the Hon Minister is being economical with the truth. Did the Hon Minister not know that the posts had been abolished? Had he not been informed by the Chief Minister, for example, of those facts? But if the Hon Minister knew his answers they could have been provided in a different way.

HON J L MOSS:

Mr Chairman, I am not quite yet at the stage of catching flies. I tend to know what is happening in my Department. The fact of the matter is that if there had been any intent to conceal this, it would have been extremely ridiculous for me to do so knowing full well that the Honourable Member had the Estimates in his possession.

HON A J CANEPA:

Then why did the Hon Minister answer the question, Mr Chairman, in the manner in which he did? Notice of the question had been given five days before. It could have been given notice of fifty days before. Because we need not confine ourselves to the five day rule. Someone could ask a question now for the next meeting of the House. However the answer has to be framed in the knowledge that the Minister is going to answer it on a certain date and the answer has to be accurate in respect of the date on which the answer is given. I am not saying that he deliberately misled the House. I would not accuse him of doing that.

HON J L MOSS:

Mr Chairman, I appreciate the comments of the Honourable the Leader of the Opposition but I maintain that that was strictly speaking the position at that time. If the question had perhaps been phrased in different terms, as I pointed out in my contribution this morning, there might have been a different answer. The Honourable Member Mr Mascarenhas however asked a question and he got the correct answer to his question.

HON G MASCARENHAS:

Mr Chairman, I asked merely whether any posts were being abolished in the Minister's department? That was the question and I have Hansard here with me. If the Hon Minister wishes I can go through the Hansard.

HON J L MOSS:

He can go through Hansard if he wants to Mr Chairman but the fact of the matter is that no posts had been abolished on that date.

HON A J CANEPA:

No posts had been abolished yet, Mr Chairman, because the Estimates had not become law.

HON CHIEF MINISTER:

Precisely therefore the answer is correct and is still correct until we vote, Mr Chairman.

HON A J CANEPA:

The spirit of the answer is hardly correct, Mr Chairman.

HON J L MOSS:

Neither was the spirit of the question perhaps Mr Chairman.

HON LT-COL E M BRITTO:

Mr Chairman, it comes back to what I was saying earlier on today. It is this obsession with secrecy and I gave three examples of three Ministers. I did not use the one of the Honourable Mr Moss because I wanted to leave it to my colleague. It reflects the attitude that I accused the Government of having and it is reflected in the Estimates.

HON J L MOSS:

No Mr Chairman, it reflects the ineptness of the Opposition in asking the wrong questions.

HON A J CANEPA:

How can we be asking the wrong question. We asked this question a number of days before when we did not have this document? We have no further question on Education.

Head 3 - Education & Sport was agreed to and stood part of the Bill.

Head 4 - Electricity Undertaking was agreed to and stood part of the Bill.

Head 5 - Environmental Health was agreed to and stood part of the Bill.

Head 6 - Fire Service

Other Charges

HON LT-COL E M BRITTO:

Mr Chairman, Subhead 3 - Running of the Fire Station. There is an appreciable reduction in the Estimates for this year. Could we have an indication whether this is savings?

HON J C PEREZ:

Yes Mr Chairman, there was a Supernumerary post there. The person that used to fill the post was an industrial who passed away and it will no longer be filled.

Head 6 - Fire Service was agreed to and stood part of the Bill.

Head 7 - Governor's Office was agreed to and stood part of the Bill.

Head 8 - House of Assembly was agreed to and stood part of the Bill.

Head 9 - Housing was agreed to and stood part of the Bill.

Head 10 - Judicial

Supreme Court - Other Charges

HON LT-COL E M BRITTO:

Mr Chairman, on Subhead 6 - Jurors' Expenses. I see from the footnote that this previously included the cost of witnesses which is now provided for under Head 15 which should be Head 14 as a matter of interest but under Head 14 - Police. Yet in anticipation of Subhead 4 Other Charges of the Magistrates' Court, I see there that witnesses have not been transferred to the Police Head. They have been kept under the Magistrates' Court. Is there any significance why the two Courts have been treated differently?

HON ATTORNEY-GENERAL:

Yes Mr Chairman, I can answer that question. Previously the system was with regard to witnesses expenses in the Magistrates' Court, that the Magistrates' Court accept responsibility for receiving, for analysing and attending to the payment of the witnesses' expenses. That is still the case Mr Chairman. So far as the Supreme Court is concerned, there has been a change in the system with regard to payment of witnesses' expenses. Previously Mr Chairman, we had the cumbersome procedure of the witnesses

called to give evidence at the Supreme Court, and especially witnesses from overseas, which often is the case by submitting their claim initially to the Commissioner of Police. He would then transfer, or submit, a claim to my Chambers and the Crown Counsel who had conducted the prosecution would then scrutinise the expenses and would certify whether the expenses, as submitted, were reasonable and authorise the payment. If a lesser sum was in his opinion more adequate compensation for the witness making the claim he would certify the appropriate sum. Then it had to be sent to the Registrar of the Supreme Court and he would settle payment. Following meetings, Mr Chairman, between the Registrar of the Supreme Court, the Commissioner of Police and the former Attorney-General and later myself, the system was changed and hence the alteration to that particular Head as explained perhaps not adequately enough in the note to which the Honourable Member opposite has referred.

HON P C MONTEGRIFFO:

Mr Chairman, on the General Office Expenses, where there is a decrease of £2,000 or £3,000, is that anything to do with the fact that under Judicial I imagine that the functions that the Registry are also included? Does that have anything to do with the fact that there is going to be a lower figure? Is it for some other reason for some other spending? There is not an area of activity that is going to be taken out? It seems odd. I see by the way that they are also not getting their law books? There is less books for the lawyers and for the judges? On the rebinding of law books and registers there is a higher figure. That is a figure that also perhaps could be explained. Is there a particular programme or something that is being considered in that respect?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I can deal with the answers the question in General and Office Expenses. The major reason for the reduction there is in fact the transfer of expenses to Sub-head 8. Certain expenses were found to be more properly classified as Printing and Stationery.

Head 10 - Judicial was agreed to and stood part of the Bill.

Head 11 - Labour and Social Security

HON R MOR:

Mr Chairman, there is a new amendment. The first page.

Head 11 - Labour and Social Security was agreed to and stood part of the Bill.

Head 12 - Law Officers

Personal Emoluments

HON P C MONTEGRIFFO:

Head 12, Personal Emoluments, Mr Chairman. I just want to raise the question of the Law Draftsman which I think is dealt with under Personal Emoluments. That has been done away with this year. Is there some alternative provision being made for that?

HON CHIEF MINISTER:

This refers to the Supernumerary Law Draftsman. The Law Draftsman we have currently here is provided under the Establishment.

HON P C MONTEGRIFFO:

Right. Can I just have that clarified?

HON ATTORNEY-GENERAL:

I think perhaps I have slightly more knowledge of this Mr Chairman and I can answer the Honourable Member's question. Previously when my predecessor was in Office he had the assistance of Mr Stanley Wineberg who was the permanent or if you like, contractual Law Draftsman. He has been replaced by the present Law Draftsman, Mrs Jill Keohane, and she is provided for at the top of the Heading. Mr Thistlethwaite when he was Attorney-General also had the assistance of an expert European Law Draftsman, David Gordon Smith, and he worked from London and occasionally came to Gibraltar as and when his attendance was required. He was provided for in a vote applicable to the Attorney-General Chambers. He was employed principally, Mr Chairman, to clear the backlog of European Directives which needed to be implemented into Gibraltar's laws. To a certain extent he was successful and when his contract expired I took the view, following my appointment as Attorney-General, and especially in view of the expertise in European Law which Mrs Keohane herself has that it was no longer necessary to extend the services of Mr Gordon Smith. In effect, Mr Chairman, the present Law Draftsman is doing the work that the previous Law Draftsman and Mr Gordon Smith were hitherto jointly doing.

Other Charges stood part of the Bill.

Special Expenditure

HON A J CANEPA:

Mr Chairman, I would just like an explanation from the Chief Minister that the expenditure of £100,000 provided for here is in connection with our challenge to the European Court.

HON CHIEF MINISTER:

Yes, that is correct. We voted Supplementary Funds during the last Financial Year and this is shown in the Forecast Outturn. This is a sum which may or may not be enough, but given the cost of the specialist advise we need to retain to make submissions to the European Court, we thought we had to include a substantial sum.

Head 12 - Law Officers was agreed to and stood part of the Bill.

Head 13 - Personnel was agreed to and stood part of the Bill.

Head 14 - Police was agreed to and stood part of the Bill.

Head 15 - Port was agreed to and stood part of the Bill.

Head 16 - Post Office, Savings Bank and Philatelic Bureau was agreed to and stood part of the Bill.

Head 17 - Prison was agreed to and stood part of the Bill.

Head 18 - Public Works

Other Charges

HON K B ANTHONY:

Subhead 7, Mr Chairman. There is a vast reduction in the training of apprentices, is there any significance in this please?

HON J C PEREZ:

We have not been training more apprentices as part of Government policy over the last two years, but we have had to carry the expense of the apprentices that are in training. Therefore as they finish their apprenticeship there are less people in the pipeline and therefore the expenditure is less because they become craftsman and are accounted for in other votes as fully fledged craftsmen.

HON K B ANTHONY:

Thank you Mr Chairman. Now if I can turn to Sanitation - Subheads 16 and 17 - Collection of Refuse and Disposal of Refuse. How does this fit in with the Joint Venture Companies set up to collect refuse?

HON J C PEREZ:

The sum of money that is included is paid to the Company for the services that the Company provides the Government.

Head 18 - Public Works was agreed to and stood part of the Bill.

Head 19 - Secretarial was agreed to and stood part of the Bill.

Head 20 - Subventions

HON A J CANEPA:

Mr Chairman, I raised the question during the Second Reading of the Bill of the Social Assistance Fund. I notice as I indicated then that the Forecast Outturn has been £10m but I was asking whether in fact the whole of the £10m had been paid out or whether part of it had gone into reserve. I also asked some questions about the nature of the Social Assistance Fund, how it has been set up. Perhaps could we have some answers now?

HON CHIEF MINISTER:

Mr Chairman, as we explained in fact when we set it up originally in 1988/89 with the £1m and when we removed from the Vote, I think it was in the Department of Labour and Social Security, a number of payments, such as Supplementary Benefits and so on, we were providing at the time a sum which we knew was going to be in excess of the payments that were actually going to be made and in broad terms effectively the recurrent payments come to about half the sum and the Members will remember that I mentioned that we were planning to build up a reserve of the order of £20m which is really four years at £5m each.

HON A J CANEPA:

So the £5m that have actually been used up or have been spent comprises payments made under Supplementary Benefits, payments made under Family Support Benefits and those payments made by the Gibraltar Community Care, the £39 per quarter?

HON CHIEF MINISTER:

Although the machinery for that is not yet in place, that is where it will eventually will come from.

HON A J CANEPA:

And there is therefore about £5m that have not been spent and they have gone into reserve?

HON CHIEF MINISTER:

That is correct.

HON A J CANEPA\*

Where?

HON CHIEF MINISTER:

Well, at the moment they are still there, but we are creating the necessary framework so that it is done in



a way which ensures that there can be no question as to the possible liability of those funds under any extension of the application of Community Law.

HON A J CANEPA:

But the £5m are within the Consolidated Fund or are they earning interest as a result of being invested?

HON CHIEF MINISTER:

We actually created and gazetted at the time the Social Assistance Fund as a Special Fund under the Public Finance Control and Audit Ordinance, when we set up the initial £1m with it in 1988/89, and therefore the money goes into there and is paid out of there and what is not paid is retained within that Fund. It is a Fund that will appear with the other special funds in the audited accounts for the year.

HON A J CANEPA:

I am grateful for those answers Mr Chairman.

HON P C MONTEGRIFFO:

Can I raise a question on the Gibraltar Broadcasting Corporation? The Subvention there is at the same level as last year's Estimates although the Forecast Outturn was some £50,000 over the original budgetted figure. Can the Government indicate bearing in mind the freezing of expenditure in that area as well on the freezing of the level of subsidy, what its thinking is at this stage and how do they expect GBC to develop. I think it is a reasonable time to request this information Sir.

HON J C PEREZ:

Mr Chairman, the Government does not answer for the decisions that the Board or the Management of GBC take. It is nonetheless in consultation with both the Management and the Staff side of GBC that we are looking at new opportunities for GBC. In the meantime I think that in the absence of any further initiative in the coming year the least we could do is to continue to provide the same amount of money and perhaps we can look at the future of GBC jointly with the Board of Management and the Staff side in a different light. But at the moment it is not that the Government have a specific policy for GBC. It is that there have been interested parties from outside wanting to make proposals which the Government have encouraged and none of the proposals are ready yet. When the proposals are received they will need to be discussed with the Board, the Management and with the Staff side.

HON P C MONTEGRIFFO:

Mr Chairman, does the Minister accept that in the context of rising costs and rising wages and salary bills that the Subvention as proposed means that the only way that the Corporation can presumably act, unless it raises revenue from some other source and pretty fast, that it is just going to cut back on services. Because the moment we slip into the next Financial Year their cash flow on a monthly basis is going to mean that they simply cannot provide the services that they have been doing so far and is Government prepared to see that cut in services. Is it something that they are willing to see occurring Sir?

HON CHIEF MINISTER:

Mr Chairman, the position is that in addition to the £570,000 that is provided in the Estimates as a repetition of last year's Subvention, the cost of the Pay Review is included in the £4m and will be vired. This is what happened last year and which is what has happened before. So the amount that is provided is the amount that was provided before and the cost of the Pay Review is guaranteed by the Government when it comes into operation in July and then the Corporation is expected by its own commercial development to absorb during the course of the year that year's Pay Review and get the new Pay Review the following year. This is how it has been operating for the last four years.

HON P C MONTEGRIFFO:

Mr Chairman, I would like to raise the question of the Gibraltar Health Authority. The expenditure there, the estimate for last year was in the order of £6.8m, where as the Forecast Outturn was £7.8m a fairly significant figure of about £1m so we are talking about a 12% or 13% overshoot. The £6.8m now is under the Approved Estimates of last year and does that not imply some cut-back? Or is the Government looking at private patients making up the difference? Could the Government explain the position there.

HON CHIEF MINISTER:

I will explain the position Mr Chairman. The reason, if the Honourable Member looks at the Accounts on the Report of the Health Authority which are available to him in this House....

HON P C MONTEGRIFFO:

After a long time, Mr Chairman.

HON CHIEF MINISTER:

Well he has it there now so he can find the answer if he looks at them. I will tell him where to look. Mr Chairman he will find the answer I am not very sure that I can find it myself, but if I remember the position is that, as with GBC, within the block vote is the cost of the Pay Review of all the employees of the Health Authority. When the cost of that Pay Review comes through then the amount would be vired from the £4m and added to the £6.8m. So the outturn for the year will show that additional amount. In addition the Forecast Outturn for the last year is in fact higher than normal because in the preceding year there was a shortfall which was carried into the last Financial Year as an advance from the Consolidated Fund and we upped the Supplementary Funds during the course of the year to compensate for that. The third element is that in the Subvention last year there was a sum of £140,000 or thereabouts for medical equipment which this year we increase to £300,000, we have doubled the amount, but we actually provided for it in addition to the Subvention in the Improvement and Development Fund, so that in fact the Subvention is higher than last year because last year's Subvention included £140,000 for equipment which is now part of the £300,000 in the Improvement and Development Fund. So if you were comparing like with like the Subvention this year should be down by £140,000 since we provided the equipment through the Improvement and Development Fund.

HON-LT COL E M BRITTO:

Mr Chairman, I think I raised this point last year as well, that the list or the breakdown of grants in aid that is listed on this page, can obviously be forecasted in the Estimates and put in into the Estimates for the following year. I suggested last year and I am not quite sure what reception I got, but it has not happened. The question of grants to sporting bodies under Head 3, which we have already passed if a similar list could be produced. I appreciate the difficulty of the Minister for Sport not being able to forecast a year ahead how the £40,000 the Government is spending will be spent. But what would be useful for the record because there does not appear to be any record anywhere else, unless it is in answers to questions that I have raised in this House. I wonder whether this list could be produced for sporting grants in retrospect. In other words detailing the outturn of the current year as opposed to the forecast for the following year and this would place the breakdown of the sporting grants on the record.

HON CHIEF MINISTER:

I think what we could do Mr Chairman is, when we bring the Estimates of Expenditure provide that information, but I do not think we can show it in the actual book,

because that would be inconsistent with the rest of it since in fact where there is a breakdown it is a breakdown in respect of this year's Estimates since it is this year's Appropriation and to a very large extent the forecast outturn which is what the breakdown would be in respect of, is really the Treasury's Estimate of what we have spent. It is not something that we are actually voting upon in the House. Technically what we are voting upon is the column which is the appropriation of money this year. So the footnotes are to explain what it is we are voting. Not footnotes explaining what we think we have done which is what the forecast outturn shows. But there is no reason why we cannot provide that information. What we will do is check and find out whether such a breakdown already exists in the Audited Accounts and if they do not there is no reason why they should not be included.

HON K B ANTHONY:

Mr Chairman, just on a point of curiosity on the grants-in-aid, I see that there is £120 for the Commonwealth Agricultural Bureau, and as we have no agriculture I would like to have an explanation on this.

HON CHIEF MINISTER:

I imagine that this is one of the many anomalies and curiosities that we have inherited from the AACR which we have not yet corrected.

HON A J CANEPA:

Which the AACR inherited from the then Colonial Government.

Head 20 - Subventions was agreed to and stood part of the Bill.

Head 21 - Telephone Service

HON K B ANTHONY:

Just a general question, Mr Chairman, as we have the Gibraltar NYNEX deal coming into fruition in the near future, I am just curious about what will happen to the £1,680,000 in this year's Estimates and next year where will we find them.

HON J C PEREZ:

Yes Mr Chairman, I gave an explanation in the speech that I gave. It is not that NYNEX is coming to fruition, NYNEX is operating as from the 6 May. But the Estimates were already published. There are payments to be made in respect of bills that come two months in arrears to GibTel because the billing is done quarterly. So there are some payments that need to be made out of this year's Estimates and they will be reflected with some revenue coming in

obviously. But if you look at taking away the Improvement and Development Fund, if you look at the Estimates of Revenue and the Estimates of Expenditure, it was the same so that the part of it that we needed to spend would be offset with revenue because it would cover the same period of time in the Estimates.

HON A J CANEPA:

And next year the Government's contribution to the Joint Venture Companies, will it appear in the Estimates too?

HON J C PEREZ:

The Government is not making any contribution next year. We made an initial contribution to the Company of flm which was coupled by that of NYNEX with another flm to set up the Company and it is not expected that either party will have to contribute in anything else for the Company. That came out of the Telecommunications Fund.

Head 21 - Telephone Service was agreed to and stood part of the Bill.

Head 22 - Trade and Industry

Special Expenditure

HON A J CANEPA:

Now my question is, Mr Chairman, that the Minister has rolled over £30,000 on the City Plan and does he really mean to spend the £30,000 in 1991? In other words does he commit himself to publish the City Plan? Or is he in fact going to carry it over into 1991/1992. Having regard to what he has said about the five zones, I would imagine that there is a need now for those five zones to become a Statutory Instrument.

HON M A FEETHAM:

In due course. Because what we are doing is revoting. If I do not spend it I do not spend it.

HON A J CANEPA:

Does not the Minister think that he is in danger that one of these days somebody will pluck up the courage and take him to Court?

HON M A FEETHAM:

No Mr Chairman. The Honourable Member got his knickers in a twist when he was the Minister for Economic Development.....

HON A J CANEPA:

No I did not. That is why Cornwall's Centre is there because I did not get them in a twist.

HON M A FEETHAM:

Mr Chairman, because of the lack of forward planning and the creation of more land the Hon Member was forced to develop inside the City Walls and therefore got himself into all sorts of problems with the Conservationists. We have not yet done any development of any sort within the City Walls or anywhere near any listed building or monument. So therefore we can be more relaxed because we are concentrating our efforts somewhere else.

HON A J CANEPA:

When the Minister talks about his five zones and he talks about the old town, the old city, I notice that, perhaps I should declare an interest now Mr Chairman, living in the South District where you used to live, where does the South District come in? Is it part of the old town or is it not covered in one of the five zones?

HON M A FEETHAM:

That is strictly outside the concept that I was trying to put over in terms of the old city and retaining the character of the old city. The South District of course forms part of the wider aspect of our zoning policies and therefore the South District fits in with the wider urban renewal programme that we are going to be putting into effect. Let us deal with the old city first and then we will move out beyond the walls as we progress.

HON A J CANEPA:

Does the Minister have any plans for the South District? Any zoning of green areas where development will not be allowed?

HON M A FEETHAM:

Mr Chairman, once we have established the urban renewal programme that is acceptable and we have looked at the wider issues and implications of MOD land releases of substantial areas in the South District to the Government of Gibraltar, then we will have to decide whether we are going to have green areas in the same way as my colleague is pursuing the policy of wider preservation in the Upper Rock.

HON P C MONTEGRIFFO:

Mr Chairman, I do not understand why the Minister should be so content to smile away or laugh away the suggestion that there should be no impetus given to that aspect,

like the City Plan. I think it is a fundamental matter which should be given thought and attention to when our City is being rightly reshaped and I say rightly reshaped in terms of the need to reshape it for the challenge ahead. But I think we cannot have it reshaped and then at the end of it all say "by the way this was the plan and it has happened already". And you get the plan at the end. Is there an indication, for example, that the Government is going to be in a position to provide us with a plan? They said in this House that they are looking at the East Side Reclamation. Is there an indication that the Government would be prepared to actually decide to proceed with say an East Side reclamation without there being an overall plan of Gibraltar's development put to the public? Without there being some sort of consultative process which would allow the public to express a view on the type of reshaping which is taking place in Gibraltar.

HON M A FEETHAM:

First of all, Mr Chairman, I do not accept that the fact that we have not published anything in relation to the concept of a City Plan and are moving in a different direction with a far much wider and more in depth approach to our planning and development. The very nature of what we want to do about infrastructure and looking in depth at other aspects, such as transport and so on and so forth. It does not necessarily follow that because we have not made something public that an awful lot of work is not being done to produce what we consider to be a plan that one can work for the next ten years. It will be a far more coherent plan than just producing five structured drawings. In the past plans with nice coloured areas have been produced and nothing has happened. The City Plan concept does not necessarily have to produce a City Plan. Does the Hon Member realise that?

HON P C MONTEGRIFFO:

Mr Chairman, I accept that. I am going further. I am saying that I agree that the concept of just looking at the City Plan in itself is now redundant. It has been overtaken by the much more drastic reshaping of Gibraltar's geographical borders, let alone the internal land that we have, and that in seeing these changes through and whether we go under the previous system of planning design or we proceed under a new system, the point that I feel strongly about and which I think is fundamental is that I think that it is wrong to say, "we are doing our homework and we have our ideas and see how the things start taking shape". I mean we had a cartoon of Mr Bossano once in the Panaroma where he was carving up Gibraltar and he had planes off the East and all sorts of things. What I am saying is that here we are involved in a fundamental reshaping of a very small piece of land which is our home and although I accept that the Government wants to get a clear picture of what it wants to do in global terms before putting it to the public, I think that is a fair

thing to do, but I would suggest, Mr Chairman, having gone two years down the road and having now been told that we have the foundation for viability and now we have to get the investments and what the Minister has made public already in broad terms, a zoning policy, the time must be fast approaching when that has to be put in a more formal sense to the public. The Government's plans must be open to scrutiny in a much more accountable fashion and what I am asking the Minister only is, can he explain? Does the Government accept that that element of communication to the community is relevant today when we are going under such a fundamental transformation? And if he were to agree to that can we have a reasonable time-scale. I am not going to say, "you did not do it the day before or the day after". But can we have a reasonable time-scale as to when the Minister feels that he will be in a position to go to people and say "that is the policy we have and this is what we would like to see taking place in these areas" and open it out for an element of public debate.

HON M A FEETHAM:

Mr Chairman, I think the remarks are extremely unfair. Nobody has gone, no Minister, has gone further than myself in terms of producing a policy of urban restructure and a comprehensive policy of structuring Gibraltar for economic growth than myself.

HON P C MONTEGRIFFO:

But only the Hon Member knows it.

HON M A FEETHAM:

No, no. Far more information has been made in the form of commitments of what we are doing and thinking than ever before. Mr Chairman, the so called City Plan that is there, produced by the AACR, and made public in November 1978, just before the election, was a first attempt at something for ten years. Nothing had been done in trying to restructure the economy and getting the economy on its way. I have made this point on a number of occasions but the Honourable Member does not wish to take note of it. We are now moving to a situation of an economy practically totally dependent on the private sector and that by the very nature of the structures that were in place before we have had to introduce major changes in terms of zoning Gibraltar in order that everybody knows exactly where they are going. The people that were most opposed to what the Government was saying because they were being completely led up the garden path were the Professional Association of Gibraltar. They were seriously concerned about the Minister for Economic Development and his intentions in the policies which he had declared. Let me say that I spent an entire morning with all fifty of the professionals in the Mackintosh Hall and I explained the policies that I had explained in this House. At the

end of the day the comments and the Motion that was passed at the Meeting and what has subsequently been said since by the people who are directly involved in spearheading the planning process in Gibraltar, was that they supported entirely without reservations the policies of the Government. Now those people are the ones directly affected and involved in the planning and development of Gibraltar, and I explained to them, not much more than what I have explained to this House and we were able to obtain their support. If what the Honourable Member is asking me to do is to give a detailed, right down to the last grain of sand, explanation of what I am going to further reclaim in Gibraltar to justify my policies then that is not on because we do not have the time to spend on discussing or explaining our policies to that extent. On the East Side Reclamation our position is quite clear but like in everything else there was an attempt by the previous administration to proceed with the East Side Reclamation it is, in fact, part of the City Plan, in draft form, that was produced by the AACR prior to the last election. The only difference is of course that they did not actually deliver. We are going ahead, if the viability is there, and are able to put the scheme together. We are going ahead and we have made that position quite clear and in fact even during our election campaign we said clearly that reclamation was a central part of our policies and we were voted in on that. So if the East Side Reclamation is viable, it will go ahead, if it is not viable it will not go ahead. The commitment I gave to this House still stands and people like the Catalan Bay Village Council will be consulted. I have already said that part of the concept of the East Side Reclamation is precisely to enhance and improve and protect our beaches on that side. Now if we are able to get this scheme together not only will it enhance and improve the environment and the quality of life in the area, but it will also give us another spin-off in terms of land that will be there to further develop Gibraltar. Now, as the Honourable Leader of the House has said, that is virgin area and we are quite entitled to develop it without having to go to a referendum. It is in that concept that our whole strategy is based. When we are ready to make further announcements in respect of the zoning policies that this Government is going to adopt we will make them public as we go along.

HON P C MONTEGRIFFO:

Mr Chairman, I accept that he is not going to change his view now. I would just like to say that this is completely the opposite type of policy which I feel should be pursued. I think the reshaping of Gibraltar is too much of a matter of interest to people individually and that therefore should be a device which allows them to participate before decisions are taken. I realise that the final decision is for the Government to take, Mr Chairman, but it is not acceptable that we should be run as a community on that basis. It seems odd that the Hon Minister feels so strongly that there is no need for a City Plan and

that it is all archaic since at the end of the day the Hon Minister will take the decision at his own best judgement. Why then are we voting for a City Plan? Let us do away with the farce and change the law.

Head 22 - Trade and Industry was agreed to and stood part of the Bill.

Head 23 - Treasury was agreed to and stood part of the Bill.

Head 24 - Minor Works and Repairs was agreed to and stood part of the Bill.

Head 25 - Pay Settlements was agreed to and stood part of the Bill.

Head 26 - Supplementary Funding

HON P C MONTEGRIFFO:

Mr Chairman, the Supplementary Funding Head which is an innovation this year and something which I oppose, in principle, as a way of trying to curtail public expenditure, but can I ask the Chief Minister or the Financial Secretary who is to have actual responsibility for that Head? How as a matter of practicality is it intended to redress the overspending by Departments?

HON CHIEF MINISTER:

Mr Chairman, the fact that we are putting a block contribution of £1.2m in itself will not prevent any Head of Department from trying to spend the whole of the £1.2m himself obviously. The position is that the Financial and Development Secretary will once again be reminding Heads of Departments of standing instruction. This is something which has not been adhered to in the past and which is that the amounts that have been voted in the House by Head and by Sub-head are the only amounts for which there is authority and that consequently we expect Controlling Officers to budget those amounts for twelve months. If they find themselves overrunning their Estimates then they should, at an early stage, write to the Financial and Development Secretary explaining the position and reasons for the overrunning of their budget. What the £1.2m will not be available for is for new items of expenditure for which there is not already a Sub-head. Fundamentally what we are saying is if we put in the body of the Estimates £42m for wages and salaries and the cost of wages and salaries during the course of the year increases as a result of pay settlements thereby throwing the Estimate out then they make a case to the Financial Secretary and the Financial Secretary provides the additional money from the £4m for Pay Settlements. Since the other element in the cost of Department is materials and if the money budgetted for materials turn out to cost more than estimated they have to make the same case to

the Financial Secretary. What, in fact, we would be attempting to do is what we did without success last year and which is to get the Treasury to remind each and every Head of Department that in fact they should not take it for granted that they can spend first and ask for the money after it has been spent. Clearly there are bound to be areas where there has been under-estimation to the extent that there are savings within the Head and virement will take place within the Head. It is only when they have a situation where there is overspending which they cannot avoid and there is not enough funds already provided in the Head that they make a case for virement from the block vote.

HON P C MONTEGRIFFO:

If that answer is correct Mr Chairman then that means that if there is saving under one particular element in a Head, then that particular element will be consumed before. So the way the Government is looking at it is that you will be breaking down in your own minds at a political level particular elements of the Head into the constituent twelve months so that for example if six months into the Financial Year under one particular element there was to be a request for additional funding and if there was a saving under another element in that Head because over that period of time there was a proportionate funding which could be a proportionate saving then it will come from that.

HON CHIEF MINISTER:

That is right Mr Chairman; it is in fact the system that has operated until now. Already the Financial and Development Secretary presents periodically in the House a list of virements from one Sub-head to another within the Head and we will expect that to continue to be the first stage before they make a call on the £1.2m and frankly if we can finish up the year without touching it all the better but this is unlikely.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I could just add one point, Sir. One of the things that we are doing to improve the process is carrying out computerisation of the Government's Accounting System. It is clearly a key part of the process of making sure that there are absolutely no excuses in terms of not knowing what the position is. So one of the things that we are going to do at the moment is to develop systems to a point that I can turn back on a regular monthly basis and quite quickly after the end of the month inform the Chief Officers as to their positions so that there are no excuses for not taking action.

Head 26 - Supplementary Funding was agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I did table a number of amendments in respect of typographical errors to Clauses 2, 3 and 4. Can I take it that these are read, Sir?

MR SPEAKER:

We are now going to do the Improvement and Development Fund first and then we will do the Clauses.

Part II - Improvement and Development Fund

HON A J CANEPA:

Mr Chairman, what is the position regarding questions on Receipts? Are we able to ask questions on the Receipts to the Fund?

MR SPEAKER:

We are talking here about expenditure. If the Government has no objection.

HON G MASCARENHAS:

Mr Chairman, the reason is that I would like to ask the Chief Minister, since he did not reply to my original question during his contribution. Under Head 103 - Sale of Government Properties, subhead 2 - Other Sales, the £16m for 1989/90 and £25,000 for 1990/91, where the revenue was coming. If he can give me an answer now I would be most grateful. I would like to know how the Improvement and Development Fund is being financed which I asked during the course of my contribution and the Chief Minister did not reply this afternoon when he wound up for the Government.

HON CHIEF MINISTER:

The Minister for Trade and Industry gave the Hon Member an answer on the £16m and told him that the bulk of that was, in fact, the sale of reclaimed land. And I have already told him what the explanation for that is in last year's Budget and in the preceding year's Budget and I do not see why I should keep on reminding Hon Members opposite of the explanations if they do not remember them.

HON G MASCARENHAS:

About the £25m?

HON CHIEF MINISTER:

Yes.

HON G MASCARENHAS:

This afternoon?



HON CHIEF MINISTER:

No. I have already explained what the policy was and how we were going to do it in last year's Budget and in the preceding year's Budget.

HON P C MONTEGRIFFO:

You wouldn't tell us very much, that was I think what was being said, that you would not tell us very much.

HON CHIEF MINISTER:

No, I explained it and Members understood it and supported it and they have forgotten it.

HON P C MONTEGRIFFO:

Mr Chairman, can I ask the £16m receipts which is primarily reclaimed land, the balance of it presumably is obviously public buildings in Gibraltar in the City itself belonging to the Government. But what is the difficulty with the Government telling us what the public building, I mean the reclamation I understand is the reclamation of patches of sand out at sea but everything else which is land and buildings which belong to the people and which comprise an element on the Minister's own words, of the £16m, I am not sure what it will comprise but certainly the £16m. What is with the Government telling us of the balance?

HON M A FEETHAM:

It is all reclaimed land.

HON P C MONTEGRIFFO:

I am sorry, I understood it was primarily reclamation.

HON CHIEF MINISTER:

The other properties are the £1.7m, leasing of properties, which are sales of leases.

HON P C MONTEGRIFFO:

Could the Government indicate what those sales are because obviously it is a significant figure? Those presumably are, again, properties within town, presumably public buildings which have been let out to third parties.

HON CHIEF MINISTER:

We have explained it all before.

HON A J CANEPA:

Then I move that the House be recessed so that we can read the Hansard.

HON CHIEF MINISTER:

The Leader of the Opposition last year when he went on television with me, in fact, supported the creation of the Gibraltar Commercial Property Company and the fact that we had transferred St Jago's and The Haven.

HON P C MONTEGRIFFO:

So The Haven has been leased to the Commercial Property Company and has the Commercial Property Company leased it on to anybody else?

HON CHIEF MINISTER:

Back to the Government that is occupying it. We have explained already the entire policy on two Budgets.

HON P C MONTEGRIFFO:

And St Jago's is the same?

HON CHIEF MINISTER:

That is right.

Head 101 - Housing

HON LT-COL E M BRITTO:

Just to confirm, Mr Chairman, from the Minister for Housing that under Sub-head 1, the £4m relates to the information he gave the House yesterday on the Laguna Estate, Varyl Begg and so on? Or is there anything else?

HON J L BALDACHINO:

There is something extra Mr Chairman, and that is that out of the £4m will come the contribution for people who are buying at Westside and living in private rented accommodation to be paid by the Government if they so desire in respect of either rent or the amount that they are paying in the instalments whatever is less. Once they obtain the mortgage then they will pay us back without any interest.

HON LT-COL E M BRITTO:

I was just wondering if it is appropriate for that money to come out of the Improvement and Development Fund?

HON J L BALDACHINO:

Yes Sir, it will be because all we are doing is that we are becoming part-owners of the property and therefore we are investing on new property and once we have recovered the money it will go back to the Improvement and Development Fund.

Head 102 - Schools was agreed to.

Head 103 - Tourist Development Projects was agreed to.

Head 104 - Miscellaneous Projects

HON M K FEATHERSTONE:

Mr Chairman, under Item 27 there is £650,000 for the Calpe House Fund. Is this a contribution to the Calpe House Fund by the Government?

HON A J CANEPA:

Is it, Mr Chairman, of a capital nature or is it to get it going and has some recurrent element?

HON J C PEREZ:

Mr Chairman, the Charity "Calpe House" have bought a property in London and the amount of money that they have obtained so far is insufficient and they therefore require £650,000 to complete the purchase. The way we intend to do it is that once the property has been bought it will belong to the Government of Gibraltar but the running of it will be the responsibility of Calpe House. It will therefore be an asset which the Gibraltar Government will obtain but the running of the Charity will be by Calpe House.

HON G MASCARENHAS:

The money that the Calpe House Fund has raised so far will go towards its running?

HON J C PEREZ:

Mr Chairman, the money that the Charity now has, and they are very near their target of £300,000, will have to be added to the £650,000 to purchase the property.

HON G MASCARENHAS:

The property will then be costing nearly £1m?

HON J C PEREZ:

That is correct. The Charity will then be financing its running through the contributions that the GHA pay patients and dependents for accommodation.

HON A J CANEPA:

Mr Chairman, is the property being purchased on a leasehold or freehold basis?

HON J C PEREZ:

It will be freehold but I cannot say much at this stage because there are some technical problems with the Westminster Council. This is because of what we wish to use it for and also that we would not pay the poll tax or be voters. There are some difficulties but we have the support of the FCO and His Excellency the Governor and things look like going fairly well. There is every intention to purchase the property.

HON CHIEF MINISTER:

It should be known that technically the owner of the property will in fact be Her Majesty the Queen, technically, because it will be a Crown Property. What we are looking at is structuring an agreement with the Charity so that Her Majesty will not be able to dispose of it and keep the £300,000 belonging to the Charity.

HON A J CANEPA:

Could we look towards a contribution from Her Civil List?

HON G MASCARENHAS:

Mr Chairman, I do not wish to labour the point but once the property is brought it will belong to the Crown and that means that the Calpe House will disperse its money to the Government, what they already have, and they will not own a proportion of the property.

HON CHIEF MINISTER:

No. The situation will be that, and this is something which has to be agreed between the Attorney-General's Chambers and the Charity's legal representatives, it will be done in such a way that if at some future date, for some reason, the project were not to continue and the property were to be alienated in some way then the proportion that they originally contributed would be refunded to the Charity. It will not be that the Government, or the Crown, will make a profit from the deal. In the meantime the utilisation of the property will be on a peppercorn lease and they will be responsible for its running. It will only be used by sponsored patients.

HON M K FEATHERSTONE:

Mr Chairman, where is the property situated and how big is it?

HON J C PEREZ:

Mr Chairman, it is in Bayswater and it can house seven patients with their relatives comfortably and fourteen with their relatives in an emergency because the flats can be divided. It is in Queensway.....

Laughter.

HON J C PEREZ:

Not this one down here but in London off Bayswater Road. It is very convenient from trains and buses for St Mary's Hospital, the Royal Marsden and for Hammersmith Hospital, the three that sponsored patients from Gibraltar use. The property market in the UK is now just right because of the slump due to high interest rates and it is now the right time to purchase. It is in very good condition and the Government itself authorised expenditure to undertake a survey before we committed ourselves with the money and the only thing pending is approval from Westminster Council.

HON A J CANEPA:

Mr Chairman, we wholeheartedly support this project. The social considerations are, of course, uppermost but apart from that we feel that the Government cannot get it wrong. With this money invested in bricks and mortar you just cannot go wrong.

HON DR R G VALARINO:

On Subhead 6, what is the progress on the Occupational Therapy Centre at the moment?

HON M A FEETHAM:

I have already said that we have now done all the structural calculations and drawings connected with the design of the new Centre and we would expect to commence construction sometime this year.

HON LT-COL E M BRITTO:

Mr Chairman, Subhead 25, Resource Development Surveys, could we have some indication of what that means?

HON CHIEF MINISTER:

The sum of money that we have put there effectively is not an amount that we have identified that we need specifically, but during the course of the year when we have been looking at various possible development projects which would be financed out of the Development Fund, it

has been difficult to find a Head of Expenditure or a Sub-head from which resources would be drawn on what may be at the end of the day an abortive thing. For example, if you are going to do as we did, for example, a study of the possible cost of the replacement of the removal of the water catchments which was financed by ODA. There are a number of things that we have been looking at doing where there is a need to carry out a project study up front which may become then part of the project if the project is considered to be a viable proposition or maybe a totally abortive piece of expenditure at the end of the day and essentially it is to enable us to have funds available to do that kind of thing. But we do not have at this stage a list of specific things to which we are allocating this money and we do not have at this moment a number of projects so that I could say the £100,000 is £20,000 for this or £30,000 for that.

HON LT-COL E M BRITTO:

Subhead 41, Mr Chairman, Improvements to Sporting Facilities - £84,000. Could I have an indication of what it is intended for?

HON J C PEREZ:

Mr Chairman, in the absence of the Minister for Health, it seems to be for improvements to the facilities at the Victoria Stadium.

HON LT-COL E M BRITTO:

Yes, I had that down, Mr Chairman, but I was not sure whether the Minister had said those had already been carried out or whether they had been provided for this year.

HON CHIEF MINISTER:

Effectively this was a departmental bid which we met in full. We can give the Hon Member a list of the things.

HON LT-COL E M BRITTO:

Finally, Mr Chairman, Subhead 60 - The Air Conditioning Plant at the Supreme Court. Am I not right in saying that last year there was a fairly substantial amount as well for the air conditioning of the Supreme Court? Is there some particular problem with the Supreme Court?

HON CHIEF MINISTER:

I think that there was a fairly substantial amount for the repairs to the air conditioning plant and I think there was also some money requested in the Recurrent Expenditure for repairs and that is the reason for the (R) because we ourselves have not yet been able to fathom why it is we need to keep on repairing it and we are also being asked to replace it. So, in fact, we are making the provision for the money in case it is required, but it is reserved and therefore approval has not yet been given for that reason.

Head 104 - Miscellaneous Projects was agreed to.

Head 105 - General Services was agreed to.

Head 106 - Potable Water Service

HON P C MONTEGRIFFO:

I assume that that Head will become redundant, or how does that fit in with the proposed talks on the Water Service?

HON J C PEREZ:

Mr Chairman, if the Water Service were to be commercialised the same as The Telephone Department then it would disappear. This would be a responsibility of a company which would be a contractual obligation of the company in the context that it is set up. But they need to maintain the network and so on.

HON P C MONTEGRIFFO:

Yes, I know the Minister might find it hard, but is it the intention of the Government within this Financial Year to try and secure that arrangement?

HON J C PEREZ:

The intention of the Government is to do it as quickly as possible if that is possible. We still do not know if it is feasible, never mind possible.

Head 106 - Potable Water Service was agreed to.

Heads 107 - Telephone Service was agreed to.

Head 108 - Public Lighting was agreed to.

Head 109 - Electricity Service

HON K B ANTHONY:

Mr Chairman, Subhead 11, I assume this is the second phase of the Omrod Waterport Interconnector.

HON J C PEREZ:

Yes, that is right. It is part of the first phase and the majority is the second phase. And as the engines increase there is a need to extend the cable capacity to take the power.

HON K B ANTHONY:

Subheads 17 and 18 I am taking these together Mr Chairman, Waterport Engines Modifications and Additional Generating Capacity, can we have details on this please?

HON J C PEREZ:

Well, they are totally two different things. The modifications are new radiators for the engines. Let me say that we have had problems with these engines all the time. We are now coming to the point where last year we changed the turbo charges. If we change the radiators on two engines this year which we will probably be capable of doing because of the power from Omrod which will release some capacity and allow us to do it and perhaps moving to light fuel. If so we might not have a problem. But since the previous Government commissioned these engines there have been problems and we have continued to have problems with these engines. We are not the only ones because I hear that the Isle of Man also continue to have problems. When the previous Government purchased them they were prototypes at the time. The other thing is, of course, what I mentioned in my contribution and that is that there is a capacity charge and an installation charge for the engines that come into stream.

Head 109 - Electricity Service was agreed to.

Head 110 - Crown Lands was agreed to.

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Having caused some confusion before Sir, perhaps now I can make my amendment to Clause 2. In Subclause (1) of Clause 2, that the word "the" be omitted at the end of line 3 and the word "a" be substituted therefor.

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

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

A typographical amendment, Sir. In subclause (1) of Clause 3, the word "the" be omitted where it occurs after the expression "31st March 1991" and the word "a" be substituted therefor.

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I move that in the heading the word "minor" be omitted and that the word "minor" be substituted therefor.

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

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

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

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) BILL, 1990

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 following Hon Members abstained:

The Hon K W Harris  
The Hon P J Brooke

THE LITTER CONTROL BILL, 1990

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

HON J E PILCHER:

Mr Chairman, I have some amendments but they are all to correct errors in printing, can we take it as read?

This was agreed to.

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

Clauses 6 was agreed to and stood part of the Bill.

Clause 7

HON LT-COL E M BRITTO:

Mr Chairman, I asked the Minister this morning and in his excitement about imagining me holding a packet of refuse outside my front door I do not think he quite got round to answering. I suggested that why have individual litter control areas and would it not be tidier to declare the whole of Gibraltar as a litter control area. Would that not make life easier?

HON J E PILCHER:

Mr Chairman, in fact the Hon Member is correct and I did miss that. On the recommendation, again, of the Attorney-General's Office was that there is a particular process which must be undergone because of the involvement of the private land. So one must give notice of the area, give notice to the business. They then have seven days in which to appeal against their area being declared a Litter Control Area and then there is a process under which if it is done anyway they can appeal to the Magistrates' Court. What we did

not feel is that the whole of Gibraltar, which on the one hand might not be necessary, and we could be facing a situation where if we did it for the whole of Gibraltar and the whole of the business community decided to object to it then we could be facing 1,500, 2,000, 10,000 appeals against specific areas. It is much easier to tackle, for example, Devil's Tower Road and somebody objects then we can prove that Devil's Tower Road is an area which requires to become a Litter Control Area. If I said tomorrow perhaps an area of Buena Vista to use an example because of the vested interest declared before, that is a nice area and perhaps the appeal might be warranted. So I think this the reason for it Mr Chairman.

HON ATTORNEY-GENERAL:

Mr Chairman, can I just add to what the Minister has just said. We have that awful piece of legislation in the Constitution which encumbers Government so much on occasions from doing what it would like to do. But we cannot interfere, Mr Chairman, with a person's property or with a person's right of property under the Constitution without going through the democratic process. And it was with that very much in mind that I advised the Honourable Minister that caution rather than haste is called for when deciding which areas in Gibraltar should be declared as litter areas.

Clause 7 was agreed to and stood part of the Bill.

Clauses 8 and 9 were agreed to and stood part of the Bill.

Clause 10, as amended, was agreed to and stood part of the Bill.

Clause 11, as amended, was agreed to and stood part of the Bill.

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

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

THE TOWN PLANNING (AMENDMENT) BILL, 1990

MR SPEAKER:

There are a number of amendments and we will take them as read.

HON P C MONTEGRIFFO:

Mr Chairman, I understand that conventionally people vote yes to the Bill even though they vote no at the Third Reading even though they voted no and abstained at the Second Reading. I voted no at Second Reading and I think as a matter of logic I will vote no at Third Reading. For the record I vote no at Third Reading as well. I understand that the people on this side of the House abstained, but that is a matter for them.

HON A J CANEPA:

It is when we report at the Third Reading of the Bill we will be abstaining, Mr Chairman, and then we are being consistent with the Second Reading but in Committee it does not matter.

Clauses 1 to 3

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

Clauses 1, 2 and 3, as amended, stood part of the Bill.

Clauses 4 to 10

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

Clauses 4 to 10 stood part of the Bill.

Clauses 11 and 12

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

Clauses 11 and 12, as amended, stood part of the Bill.

Clause 13

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke



Clause 13 stood part of the Bill.

Clauses 14 and 15

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

Clauses 14 and 15, as amended, stood part of the Bill.

New Clause 16

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

New Clause 16 stood part of the Bill.

The Long Title

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

The Long Title, as amended, stood part of the Bill.

THE PRICE CONTROL (AMENDMENT) BILL, 1990

Clauses 1 to 5 were agreed to and stood part of the Bill.

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

THE TRAFFIC (AMENDMENT) BILL, 1990

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

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

Clauses 4 and 5 were agreed to.

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

THE EDUCATION (AMENDMENT) BILL, 1990

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

Clause 3

HON J L MOSS:

Mr Chairman, can I take the amendment as read.

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

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

THE FIREARMS (AMENDMENT) BILL, 1990

Clauses 1 to 22 were agreed to and stood part of the Bill.

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

THE MARRIAGE (AMENDMENT) BILL, 1990

Clauses 1 to 9 were agreed to and stood part of the Bill.

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

THE POLICE (AMENDMENT) BILL, 1990

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 INCOME TAX (AMENDMENT) BILL, 1990

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that The Christian Brothers Property (Amendment) Bill, 1990; The Gibraltar Coinage Bill, 1990, with amendments; The Immigration Control (Amendment) Bill, 1990; The Bankruptcy (Amendment) (No.2) Bill, 1990; The Gaming (Amendment) Bill, 1990; The Appropriation (1990/91) Bill, 1990 with amendments; The Specified Offices (Salaries and Allowances) (Amendment) Bill, 1990; The Litter Control Bill, 1990, with amendments; The Town Planning (Amendment) Bill, 1990, with amendments; The Price Control (Amendment) Bill, 1990; The Traffic (Amendment) Bill, 1990, with amendments; The Education (Amendment) Bill, 1990, with amendments; The Firearms (Amendment) Bill, 1990; The Marriage (Amendment) Bill, 1990; The Police (Amendment) Bill, 1990, and The Income Tax (Amendment) Bill, 1990, 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 Christian Brothers Property (Amendment) Bill, 1990; the Gibraltar Coinage Bill, 1990; the Immigration Control (Amendment) Bill, 1990; the Bankruptcy (Amendment) (No.2) Bill, 1990; the Gaming (Amendment) Bill, 1990; the Appropriation (1990/91) Bill, 1990; the Litter Control Bill, 1990; the Price Control (Amendment) Bill, 1990; the Traffic (Amendment) Bill, 1990; the Education (Amendment) Bill, 1990; the Firearms (Amendment) Bill, 1990; the Marriage (Amendment) Bill, 1990; the Police (Amendment) Bill, 1990, and the Income Tax (Amendment) Bill, 1990, the question was resolved in the affirmative.

On a vote being taken on the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1990, the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino

The following Hon Members abstained:

The Hon K W Harris  
The Hon P J Brooke

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

On a vote being taken on the Town Planning (Amendment) Bill, 1990, 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 J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

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 Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon Miss M I Montegriffo

The Bills were read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House 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 11.45 pm on Wednesday the 30th May, 1990.



GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

23<sup>RD</sup> OCTOBER, 1990

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Tenth Meeting of the First Session of the Sixth House of Assembly held in the Assembly Chamber on Tuesday 23rd October, 1990, 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 K W Harris QC - Attorney-General  
The Hon P J Brooke - Financial and Development Secretary

OPPOSITION:

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

The Hon P C Montegriffo

ABSENT:

The Hon M K Featherstone OBE (away from Gibraltar)

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 26th April, 1990, 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, 1989.

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, 1990.

Ordered to lie.

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

- (1) The Accounts of the Government of Gibraltar for the year ended 31st March, 1989, together with the Report of the Principal Auditor thereon.
- (2) The Annual Report and Accounts of the Gibraltar Broadcasting Corporation 1988/89.
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.10 of 1989/90).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.11 of 1989/90).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.12 of 1989/90).
- (6) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (no.2 of 1989/90).
- (7) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1990/91).
- (8) Legal Notice No.135 of 1990 - Stamp Duties (Variation of Duties and Fees) Regulations, 1990.

Ordered to lie.



ANSWERS TO QUESTIONS

The House recessed at 1.20 pm.

The House resumed at 3.20 pm.

Answers to Questions continued.

The House recessed at 4.30 pm.

The House resumed at 5.20 pm.

Answers to Questions continued.

The House recessed at 8.05 pm.

WEDNESDAY THE 24TH OCTOBER, 1990

The House resumed at 10.40 am.

BILLS

FIRST AND SECOND READINGS

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT)  
(NO. 2) ORDINANCE, 1990

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Specified Offices (Salaries and Allowances) Ordinance, 1987 be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I do not think I need to say anything on the Bill. This is the usual annual Pay Review for Specified Offices where the salaries are a direct charge on the Consolidated Fund and therefore are not covered by the Appropriation Bill and by the block provision in the Appropriation Bill for the salaries review of the rest. Let me say that we feel that the system needs to be looked at to see whether there is really a necessity to introduce a Bill every year. We have found, in respect of other established practices, that there is something that is an established

practice but which is not really a legal necessity. It seems to us, reading the Constitution and the Public Finance (Control and Audit) Ordinance, that the idea that the salary of the Chief Justice, Deputy Governor, Attorney-General and so on, should be a direct charge on the Consolidated Fund is intended to reflect their independence. That however does not necessarily mean that a law has to be passed every year to give them a pay rise. This is something that is not the case with any of the other 3,600 Civil Servants and we have not been able to find anything that says that this has to be done in this particular way. It therefore seems to us to be a cumbersome way of doing it and certainly if we can find a way of dispensing with the need to review the salaries in this way then we will do it. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, before I actually speak on the Specified Offices Bill, I should like to raise one point concerning the time that is allowed to the Opposition to prepare for consideration of the Bills before us today. The fifteen Bills on the Agenda were published on the 11th October and were circulated to Hon Members of the Opposition by your staff, Sir, almost immediately, as soon as it was possible for them to do that. The point that I am going to make is that on this occasion it does not really apply because the Bills are mostly straightforward, not very controversial, and therefore we have been able to do sufficient work to prepare ourselves to be ready for consideration today. However had that not been the case and had there been Bills that were more controversial, breaking new ground or which required considerable research into the principal Ordinances which are being amended, then our work might have been made rather more difficult by the fact that they were all published together. Therefore, I am asking the Chief Minister, for the future, when there are so many Bills on the Agenda, if the Government could arrange for the Bills to be published over a period of time. I do not think, Mr Speaker, that any Bills have been published for about four or five months and then we get fifteen at the same time. The House last met at the end of May/beginning of June and we disposed of all legislation that was pending and no Bills have been published in June, July, August or September, four whole months. If some of these Bills had been controversial but had been published over a period of time during the summer recess we would have been able to do our work thoroughly. I am afraid that if we get a large number of Bills a week or eight days before we are actually due to consider them in the House and they happen to be difficult and controversial we may not be able to do our work properly

because it has to be telescoped into a few days when we are also preparing questions and in some cases motions, accounts, etc. On this occasion the motions and the debate on the Accounts of GSL are going to be taken in a fortnight's time but if they had all been telescoped together our work would have been rather more difficult and we feel that we ought to contribute responsibly. I think on other occasions we have been able to make a reasonable impact on new legislation by doing our work thoroughly and by getting legal advice where necessary and we have been able to do a better job than would otherwise have been the case. As I say, it is not to be taken as any form of protest today because we have not had, in practice, any problem.

As regards the Bill before us, Mr Speaker, there is no difficulty in our supporting the Bill because, as the Chief Minister has said, it is a perennial exercise which has now been coming up since the Constitution was enacted. We would have no objection, in principle, if the Bill did not have to come to the House every time there is a pay increase. If the salaries of these specified offices could be increased in the same manner as the salaries of all Civil Servants are, without direct reference to the House, we would be quite happy about it. We do not feel that there is any major point of principle or that the powers of the House are being in any way lessened if these handful of salaries associated with specific offices did not have to come to the House. So if the Government can take advice and find a way to get around the practice and the constitutional requirements are not being infringed we would not be unhappy if this is the last Bill of its kind that we see. We will be voting in favour.

HON ATTORNEY-GENERAL:

Mr Speaker, the Hon the Chief Minister and the Hon the Leader of the Opposition have raised legal points on the necessity, under the Constitution, to present this Bill each year in the House of Assembly and perhaps it might assist Members of the House to hear my views. I respectfully entirely agree with the Hon the Chief Minister and the Hon the Leader of the Opposition that it is a great pity that the time of this House has to be taken up every year for the purpose of presenting this Bill and securing the permission of the House to increase the salary of those Civil Servants who are classified as specified officers. Last year, Mr Speaker, this very point was raised by the former Deputy Governor, Mr Quantrell, and the then Attorney-General looked at the matter. He considered it with me, in my then capacity as Senior Crown Counsel, and we conferred with the FCO Legal Advisers in London but we all came to the conclusion that it is necessary to comply with the provisions of the Constitution to present this Bill each year to the House of Assembly. I have recently been asked by the Personnel Manager's Department to reconsider the necessity and I have done so and, in fact, just within the last two or three days

I wrote to the Hon the Chief Minister confirming that I continue to agree with the views expressed by my Learned predecessor last year. So my view is, Mr Speaker, that from a legal point of view it is necessary, at least for the time being, unless and until the Constitution could be amended to present this Bill each year to this House. The situation does work unfairly, Mr Speaker, and can be seen to work unfairly because, for example, the Administrative Secretary ranks equally as a Grade B Officer with the Hon Financial and Development Secretary and myself and as soon as the salary increases become effective on a particular date he can have his increase straightaway but the Hon Financial and Development Secretary and myself have to wait for such time as the salaries and allowances for the other specified offices have been determined and a Bill can be prepared and laid before this House. I have to accept that patience is indeed a virtue, Mr Speaker, and I have to comply with that. My advice is that the Hon Members of this House have to continue as at present unless and until the Constitution can be changed. I express my advice with regret, Mr Speaker, but there is no other advice I feel I can give in the circumstances.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, I do not think I need to reply perhaps to the Bill except to say that, of course, I have raised the matter because I am not convinced by what the Hon and Learned Attorney-General has had to say on the subject otherwise I would not have raised it. I have taken note of the comments made by the Hon Leader of the Opposition regarding the staging of the publication of Bills and we will try and meet the point that he has raised. From the Government's point of view, of course, it is preferable to leave the drafting of the Bills until the last minute simply because we prefer to bring a Bill that is unlikely to be amended once it gets to the House rather than to publish it at an earlier stage and then have second thoughts about the working or about the clauses and either bring Government amendments to amend the Bill even before the Bill is passed and which has happened, in fact, before to us when they were in office. As I say, we think it is preferable not to do that but I accept that we may be overloading the AACR who clearly are not used to being driven as hard and made to work as much as the GSLP is, so I will bear it in mind.

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary abstained.

HON CHIEF MINISTER:

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

THE GIBRALTAR LAND TITLES ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to provide for the registration of deeds and wills which relate to land situate in Gibraltar, the maintenance of a record of land transactions and matters ancillary thereto be read a first time.

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill I have the honour to present to the House reflects the first part of a movement to have a streamlined efficient Land Registry system in Gibraltar. At present the registration of interest in land is dealt with under an Order of the Privy Council, the Land Titles Ordinance, essentially a 19th Century vehicle which has become apparently inappropriate for our present needs. The Bill before the House is, as I say, the first stage towards establishing in Gibraltar a simple but effective Land Registry system. The Bill substantially reproduces the mechanisms of Land Titles Order with the exception of the provision for Governor's approval and the restraint on the owning of land by people other than Gibraltarians or EEC Nationals. Governor's approval in relation to land transaction is an anachronism and the restriction on aliens apart from being offensive to people who wish to make a substantial investment in Gibraltar has, in fact, been ineffective since it could be easily overcome by the incorporation of a Gibraltar company to be the owner of the land or hold the interest in the land. The activities of the Crown Lands Department in maintaining the records of property transactions which developed as a result of preparing the papers for Governor's approval and it is important that we continue this activity since it will form the basis of our Land Registry. As practitioners in the field will tell you, without the records maintained by Crown Lands it would not be possible to have access to the deeds held by the Supreme Court. The Bill therefore makes

provision for ensuring that no deed can be registered in the Supreme Court before it has been recorded in Crown Lands or by the successor thereto. Ultimately, and I hope in the not too distant future, it will be the Register of Land Titles introduced in this Bill who will take over the entire registration function thus relieving the Supreme Court of this activity. The Bill also makes one other change in relation to the validity of deeds where registration has not taken place in the Supreme Court within the time limit. Under the provisions of the Land Titles Order, such a deed is void. Under the provisions of this Bill the deed would not be void but a charge or deed entered in the Supreme Court Register after the expiry of the time limit but before the registration of the first deed would take priority. This should help to avoid some of the difficulties which have occurred under the old rule. I appreciate that the Bill appears complicated but practitioners in the field find it straightforward and, as I say, it is only the first stage to simplifying the whole process. The revocation of the Land Titles Order must coincide with the enactment of this Bill and arrangements are being made in London for the revocation of the Order which will take effect on the 31st October this year. I have already given notice of amendments and these will be moved at the Committee Stage. I also took the necessary steps to consult, through the Attorney-General's Chambers, the Leader of the Opposition on this Bill for ease of reference in the House. I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we support this Bill and it has been explained to me as to why it is necessary for it to go through all its Stages. Since the House will not be meeting again until the 8th November it is necessary, since the Land Titles Order is going to be revoked by the Privy Council on the 31st October, that we should have taken the Bill through all Stages beforehand and which we are doing today. I do agree, Mr Speaker, that at this stage in our affairs, that the Governor's approval should be required before deeds can be registered has become not just cumbersome but, in fact, anachronistic. It is certainly cumbersome and is, in many instances, the cause of some delay in having deeds registered and therefore in future it will not be necessary, once this Bill is passed, for the Governor's approval to be sought. I understand that even mortgages have had to have the approval of the Governor before the whole thing could be registered and in this day and age when we are trying to promote home ownership that is not desirable. So in future it will be the endorsement of the Register of Land Titles which, as Mr Feetham has explained, will the Director of Crown Lands which will only be required before it can go to

the Supreme Court as is now the case. Perhaps one of the most important provisions of the Bill is the removal of the existing restrictions on aliens owning land. In practice it has been meaningless in that by incorporating a company they have been able to get around that difficulty but it has worked unfairly in a number of instances and cases that come to mind involve some of our Indian citizens who are residing in Gibraltar, who are working in Gibraltar or have set themselves up in business in Gibraltar and when they purchase property and have the ownership of the property incorporated in a company and they are not entitled to tax relief on the mortgage and this is manifestly unfair. Therefore we will now be able to get around that and they will be able to own property and if they are paying a mortgage they will be able to get the tax relief which everybody else living, working or doing business in Gibraltar is entitled to. For these reasons, Mr Speaker, we find no difficulty in supporting a measure which is fair in principle, and which will accelerate the system thereby helping us to take a small step forward in our constitutional advancement. Therefore we support it and we are quite happy that it should go to Committee today and we will be voting in favour at all stages.

HON P C MONTEGRIFFO:

Mr Speaker, I am happy to support the Bill and I am glad for the clarification about the revocation of the 1888 Order which had somewhat foxed me before me the Minister had clarified the matter. The deletion of the Governor's approval I think is purely administrative more than anything else and all those steps I welcome. The matter I want to bring to the attention of the House is really divided into two parts. Firstly, Section 4 of the Bill provides that the Governor will appoint a person to maintain the record. What therefore is new also in this Bill is the flexibility given to the Governor to determine, from time to time presumably, who will actually be the Registrar and in the context of the changes to the Crown Lands Department and in the context of the changes that are being introduced, Mr Speaker, to the question of management of Government lands, I wonder whether the Minister could indicate whether he is now in a position to clarify whom it is proposed would be the Registrar? Whether there will be a separate agency or a separate body or entity set up to undertake this hugely important function and on what terms and on what basis such an agency would run? That point, Mr Speaker, links up with the second point I would like to make which is the suggestion which I entirely agree with that we should move towards a single system of registration. The present set-up where you have the Supreme Court on the one side having a record and then the Crown Lands Department having another record is a complete duplication and I suppose, and I would like the Minister to confirm this, that the suggestion that we have a Registrar appointed specifically for the purpose of Land Titles Register is a step towards completely putting

everything under one umbrella. If that is the case, Mr Speaker, and subject to my being satisfied that the arrangements for the proposed agency or entity that will become the Registrar being adequate then I think it will be a step in the right direction and I think it will be a form of streamlining to the present system and would provide for a much more comprehensive record than is presently the case. I wonder if the Minister in his reply could deal with those two aspects.

MR SPEAKER:

If there are no other contributors I will ask the Mover to reply.

HON M A FEETHAM:

Mr Speaker, the idea is to streamline the system. A great deal of time is wasted by all interested parties in trying to follow a registration in Crown Lands with the registration in the Supreme Court when two entirely different systems have been in operation for many, many years and where perhaps one has it in chronological order and the other one has it differently and therefore it does not make sense when we are trying to speed up and trying to make a more efficient public service as well as improving our financial centre activities that this sort of thing should be happening. So, yes, the idea will be to have one Registrar and, as I say, this is the first step that we are taking in that particular direction. The point is that there will be, of course, a Registrar appointed. It makes sense that when the Government moves into the commercialisation of what is at present part of Crown Lands in terms of its property and land management that the Registrar would be the Head of the Agency that will be acting on behalf of the Government in this matter.

HON P C MONTEGRIFFO:

Will the Minister give way?

HON M A FEETHAM:

Yes, Mr Speaker.

HON P C MONTEGRIFFO:

Is the Minister of the view that the function of any such Registrar would be enhanced by making sure that such an Agency remained a Government-owned Agency as opposed to a private vehicle. My concern, Mr Speaker, is that I entirely agree with the Government if its view is going to be that we should introduce a more commercial way of running the register, a way that will make it more streamlined and more efficient but I have my reservations as to whether a Register which is an important fundamental public record

should be contracted out to a privately owned company as opposed to an Agency which ultimately is Government-owned. That is my reservation, Sir, and I wonder if the Minister could comment on it.

HON M A FEETHAM:

Mr Speaker, when we looked at the initiative that was taken by the Government employees themselves and in this case it was not a move on the part of the Government but a move on the part of a considerable number of employees in my Department that thought that the property management and land management of Government activities could be better run on a commercial basis than within the constraints of the public service that the Government thought that it was something which should seriously be looked at. But at the end of the day what we agreed as the best way forward was, indeed, that it should not be a 100% Government-owned company ie a quasi Civil Service type operation. I think I have made the point before, that with the growth that is taking place in Gibraltar in property management, rather than have the growth in that area filled by expatriates moving into Gibraltar and reaping the benefits of the efforts of Gibraltarians in creating economic growth in Gibraltar, that the people who I am talking about in Crown Lands who are professionals should also reap the benefits of being able to offer their services to commercial entities in Gibraltar. Of course, it was essential that it should not conflict with the principles that the Government themselves wanted to protect and that is an efficient property management and land management factor which, indeed, under the conditions and the climate that we are working today we are talking about market forces and Government has to get the best return it can under those conditions. So therefore it was a package and if it moves in that direction it will be the package. I have the absolute confidence in the people that we are talking about as, indeed, no doubt some Members of the Opposition who have had experience with these persons that these things will be done in the absolute confidence and with the best interest of the public involved. All these matters have been very closely scrutinised and tied up by the Attorney-General's Chambers, in terms of the legalities involved, and also indeed insofar as it has affected the Financial and Development Secretary himself.

HON P C MONTEGRIFFO:

Mr Speaker, if the Minister will give way one more time.

MR SPEAKER:

It is very important that you express your views when you are asked to do so because we cannot go on like this. It is at Committee Stage where the details can be gone into. I will allow you this time but not again.

HON P C MONTEGRIFFO:

Mr Speaker, this is an important Bill, we are really talking about little steps in our constitutional development and we have had about ten minutes on it and I do not think it is unreasonable but I am grateful for your leave. Sir, the only point I wish to make is that I accept entirely the integrity of the people involved in the proposal that Government property be managed this way, the only point that I think should be highlighted is that I think there is a distinction between the managing of Government properties which is one thing and the registration of all other properties be they Government, private sector or whatever. Although I have complete faith in the integrity of the individuals involved, I think you are potentially getting into a line of privy to the arrangements that the Attorney-General has made in the contract, I think you are potentially getting into a problem of some conflict of interest between the simple duty to register and the simple duty to make sure that all the requirements of registration are in place and the commerciality involved not just in managing Government estates but, as I understand from the Minister, in allowing those individuals legitimately to also benefit from the growth in the property market which is taking place. I am saying only that without having details of how those functions are going to be divided I am concerned about the.....

MR SPEAKER:

I must stop you now. The only interruption allowed is to clarify a point. I think you have clarified the point and we cannot go any further now. So I will ask the Minister to finish his reply.

HON M A FEETHAM:

Mr Speaker, just to say that I welcome, with the reservations that have been expanded, the unanimous support from the Opposition. I would like to state as a final point that in fact we are talking about a public record which is available for inspection to everybody at any time. So anybody can go and see whatever he wants to see in those records. It is not really restricted to the Registrar, any Member of the House can go and look at the Register at any time.

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

HON M A FEETHAM:

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) (NO. 2) ORDINANCE, 1990

HON M A FEETHAM:

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

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this short Bill is of a technical nature to make absolutely clear that the person who engages in any of the activities prohibited in subsection (1) of section 112 of the Imports and Exports Ordinance is guilty of an offence. That section is concerned with illegal actions in relation to cargoes in territorial waters. The amendment does not impose any new liability on any individual or creates any new offences. As it presently stands, the section makes it clear what penalties were attached on the person who commits any of the offences including forfeiture of the vessel but I am advised that in technical terms we should also declare that the individual is guilty of an offence and this is the effect of the Bill of which I now move the Second Reading. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, the points made by the Minister are taken on board and what is thrown overboard are taken on board - if you will excuse the pun - and we will be supporting the principle of the Bill. With this in mind the one or two points that I would like to make are given in a spirit of constructive criticism in order to improve the legislation. Firstly, Mr Speaker, section 112 refers to ships. Perhaps the Attorney-General would clarify whether the size of a ship comes into question in this legislation or whether ship covers any size of vessel because although the Minister has not made it clear I think we all can see what the legislation is really aimed at and what type of vessels and what type of cargo we are thinking of. The second point, which I am sure is correct but it just seems to me that is it enough to say "guilty of an offence" without specifying the penalties involved as in the case of the seizing of the

ship or would it be better to be able to relate to the gravity of the offence by having the offence specified? Finally, because of what I think is the thinking behind the Bill and presumably when the section was originally drafted the people who drafted it were thinking in terms of ocean going vessels and large cargoes and if this is not the case at the moment, would it not be a good idea, Mr Speaker, to include provision for the cargo itself to be seized if it is recoverable because it is of a nature that once it is thrown overboard it stays afloat for a number of hours and is fully recoverable. We will be supporting the Bill, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, I support the Bill. I would simply like to add a further point to those already raised which is that my understanding is that, surely, what is being created is a new offence or, at least, if the explanatory memorandum attached to the Bill is to be believed, what that says, Mr Speaker, is that the object of the Bill is to attach a precise criminal liability. I am not entirely certain what that means and perhaps the Attorney-General could elucidate the matter further. My understanding is that that can either mean, firstly, that we put it beyond doubt that there is a liability in these circumstances when perhaps this has been questioned in the past or, secondly, that we are creating a criminal liability in this case when it has been that, in fact, there is not a liability in some proceedings or whatever that have taken place. If the Attorney-General or the Minister could clarify that I would be grateful. Also, if it were possible, could the Minister indicate whether this legislation arises out of a particular problem that has, in fact, occurred with the interpretation of this section or does it arise as a result of some other policy decision that might have been taken.

HON ATTORNEY-GENERAL:

Mr Speaker, can I deal, firstly, with the points made by the Hon Lt-Col Britto. Ship is defined in our legislation, I think in the Imports and Exports Ordinance, Mr Speaker, and as I remember the definition it includes all types of vessel other than a rowing boat. Rowing boat is defined, I recollect, in the Port Ordinance or certainly subsidiary legislation made under the Port Ordinance. Insofar as the penalties are concerned, for an offence contravening section 112, Mr Speaker, they are contained in some other section, I do not recollect which one it is, it comes after section 112 of the Imports and Exports Ordinance which provides that the contravention of that and other sections shall be punishable by a fine and/or imprisonment. It also provides that there is a discretionary power vested in either the Magistrates' Court or the Supreme Court to order forfeiture of the vessel concerned and/or the cargo carried in that vessel. That, I think, Mr Speaker, covers the points, I hope satisfactorily, raised by the Hon Lt-Col Britto. The Hon Mr Montegriffo



raised a point arising from the explanatory memorandum of the Bill as to what is meant by a precise criminal liability. The reason for this Bill, Mr Speaker, is simply to insert into section 112 the words "shall be an offence" because those words were omitted on the last occasion a Bill was brought to this House for the purpose of repealing and replacing the previous section 112 of the Imports and Exports Ordinance. Mr Speaker, it could be said that even with the omission of those words "shall be an offence" the fact that another section of the Ordinance provided for penalties for contravention of section 112 and other sections rendered it obvious that anyone who engaged in any sort of the conduct specified in section 112 was indeed guilty of a criminal offence. But I do not wish legislation to be open to two possible interpretations, Mr Speaker, and as I have said before and it is worth repeating, that I believe in being safe now rather than perhaps sorry later. And it was on the basis of that that I advised that this minor amendment should be made to section 112 to make absolutely no doubt that the indulgence of behaviour specified in that section was and is a criminal offence, punishable by the penalties specified elsewhere in the Ordinance.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, I think all the queries have, in fact, been answered by the Attorney-General.

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

HON M A FEETHAM:

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

#### THE SHOP HOURS (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

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

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

#### SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, from time to time it is the duty of Ministers to move in this House a series of Bills of little substance but which are intended to simplify or facilitate change. This is the case in the proposed amendment to the Shop Hours Ordinance. What, in effect, the Bill does is to take from the Ordinance and put in Regulations the role of controlling the conditions of work of shop workers and the opening hours of shops so that where circumstances change amendments can be made by Regulations in such important areas as, for example, the numbers of chairs available in a shop in which female staff are employed. Presently if it is concluded that the number of chairs provided is inadequate the Ordinance will need to be amended and this House will have to give its time to such a matter. The effect of the amendments I bring to the House is to transfer to Regulations this kind of detail. I have also taken the opportunity to bring up-to-date the penalties provided by the Ordinance for breach and you will see that this occurs principally in clauses 3 and 4 of the Bill. The power to make Regulations under Clause 5 is confined to dealing with those matters currently dealt with in the Ordinance and which is now proposed to be dealt with by Regulation. Provision is also made for the definition of retail trade or business to be amended by Regulation. In the past, as the House will recall, where some form of retail trade appeared it was necessary to amend the Ordinance as, for example, was the case when Video Shops appeared in Gibraltar. There is another minor change of substance which will occur when the Regulations provided for under the Ordinance are published. These Regulations universally reproduce the current position in the Ordinance with the minor exception of allowing shops at the Airport to be opened other than the present limited facility of an hour or so in advance of a plane departing. The retail trade is one which I think there is still a need to protect the interests of employees. Essentially this Bill makes it easier to do that on a continuing and up-to-date basis. I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, as Hon Members know we have consistently been opposing the measures of legislation which have, in our view, taken powers away from this House by providing for Regulations to be made in lieu of amending legislation being brought to the House. On this occasion the matters that we are dealing with are not matters of fundamental importance

insofar as the powers of the House are concerned. I do recall many occasions in the past when it has been necessary to bring an amending Bill and we obviously do not think that the prior approval of this House should be required before we can fix the hours on several days of the week in which shops are going to open. I think we have gone beyond that. The intention in the past, of course, was of a protective nature, it was to protect the interests of those concerned but we have no doubt that they are being adequately protected and therefore on this occasion we do not object to a number of sections of the Ordinance being repealed and the Ordinance being amended in order to provide for Regulations to be made to cover many of these aspects. There is one matter on which I would ask the Hon Minister for Trade and Industry, if he is able to, to clarify and that is that over the years, and I think it is the case at present as well, there have been powers under the Regulation of Wages and Conditions of Employment Ordinance for the wages and the conditions of employment of shop assistants to be fixed by Regulation. Why, if Regulations are going to be made under this Ordinance, is not some corrective action being taken with respect to the Regulation of Wages and Conditions of Employment Ordinance insofar as shop assistants and other allied trades are concerned? Why are not those also being repealed or amended as necessary? It is just a point of clarification that occurs to me and when the Hon Member exercises his right to reply perhaps he can let us know. The only other point, Mr Speaker, as we will be supporting the Bill, is could the Minister give us some indication of what degree of consultation has there been? Has the Chamber of Commerce been consulted? Have their views been obtained and have the views of the Trade Unions, the TGWU in particular, been obtained on this measure of legislation? Does it have the support of both bodies? If the Minister is in doubt as to that matter, as to whether they have been consulted and have replied in the affirmative, if it has not been done already perhaps the Minister could do so between now and when we next meet on the 8th November and let us know what their views are. But we do not have any objections in principle.

HON P C MONTEGRIFFO:

Mr Speaker, although again opposing the major attempt to wrestle legislative powers away from this House, the proposed Bill is dealing with matters of a minor nature. The point I would like to bring to the attention of the Minister which has not been touched upon before is that the Bill now talks about a Director to be a person appointed by the Government as being the person or entity that will administer the provisions of the Ordinance. That is a departure from the previous system whereby I think the Director of Labour and Social Security was the person defined as the person to be charged with the administration of the provisions of this Ordinance and I wonder again whether the Minister in his reply could confirm whether he

has also envisaged that in the Regulations of this Ordinance and the amendment, that one of the other agencies that Government is setting up, perhaps the Gibraltar Development Corporation or whatever, is in fact going to be charged with policing the Regulations and on what terms? Finally, Mr Speaker, a matter perhaps more for the Attorney-General than for the Minister, am I missing something in not seeing why there should be a repeal of Section 15 of the principal Ordinance. Section 15 of the principal Ordinance, Mr Speaker, is the section that presently, and I will quote: "The Governor may from time to time by order add to, amend or revoke the Schedules". That Section, surely, is covered by the new Section 16, well Section 5 of what will be the new Ordinance which in sub-paragraph (g) allows the power to the Governor to amend the Schedules to the Ordinance. There seems to be an element of overlap there. It is just a technicality but it seems as though there is an overlap and perhaps the Attorney-General can tidy that up before the vote is taken on the Third Reading, Sir.

HON ATTORNEY-GENERAL:

Mr Speaker, if I can reply to that final point raised by the Hon Mr Montegriffo. He may well have a point, Mr Speaker, but the new Section 16 which Clause 5 of the Bill proposes to insert into the Ordinance is restricted to a power vested in the Governor to make Regulations with the coming into effect of the Ordinance and for any or all of the purposes which that Section specifies. It may well be, Mr Speaker, that the Hon Member is right in saying that the general power of the Governor to make regulations for the carrying into effect of this Ordinance, necessarily implies a power to amend the Schedule from time to time. I will certainly consider the point the Hon Member has raised but it does seem to me, Mr Speaker, to do no harm to allow the Governor to have two enabling powers and thus make it quite clear precisely what his powers are in each particular case.

MR SPEAKER:

If no other Hon Member wishes to make a contribution I will ask the Mover to reply.

HON M A FEETHAM:

Mr Speaker, the important point made by the Leader of the Opposition in respect of the regulations providing for the conditions of employment of shop assistants and the possible conflict or overlap with the Conditions of Employment Board, this is in fact done on purpose because the Conditions of Employment Board, as the Member may recall, has wider powers in terms of the trades that could be covered under the Board and establishing minimum conditions for a much wider spectrum of employees in the private sector where there are no collective agreements between the Unions and the particular sector of employers that are involved. That is

why it is being done in this manner. The question of the consultation, as I understand it, consultation has taken place. If you look carefully at what I said, in fact, very little change, if anything, is being done by what we are introducing in this Bill today. What we are actually doing is increasing the efficiency and the management of the business not just in the House but within Government Departments. Even the authority, such as the Trade Licensing Authority, from time to time, has found itself in a problem that before issuing we have needed to come to the House to amend the Bill in order to recognise a new business coming into the community. Therefore by experience we feel that this is the best way of running business generally. On the question of the Director, I am asked who is going to be the Director. From time to time Government has stated in the House that the restructure of Government Departments which we have commenced is an ongoing thing and therefore somewhere along the line, in the light of the changes that have taken place, we will decide who will be the Director in the light of the particular responsibility or workload that that person may have. Therefore the Government wants that flexibility before it actually makes a firm decision.

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

HON M A FEETHAM:

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

THE FAST LAUNCHES (CONTROL) (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Fast Launches (Control) Ordinance, 1987 be read a first time.

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I well fear that this Bill may turn out to be a great disappointment. It contains nothing more exciting than a provision to allow somebody whose business is the sale of fast launches to be able to operate his business. It will allow the Captain of the Port to give to such a person a permit, and not a licence, to use a fast

launch so that the trader can establish the sea worthiness of the launch which he is demonstrating to be a bona fide potential purchaser and as such a purchaser would, of course, have to come from outside Gibraltar to deliver the boat to that purchaser. I would like to give notice that at the Committee Stage of this Bill I will be moving an amendment to insert the essential word "not" between the words "period" and "exceeding" occurring towards the bottom of page 212 of the Bill. I think it is helpful if I give to the House advance notice of my intention. It will help to make better sense of the Bill and may assist the Members opposite in any comments they may wish to make. I should perhaps draw the attention of the House to the fact that the Bill reserves to the Captain of the Port a discretion as to whether or not issue a permit either to a visitor or to a trader and that the Captain of the Port is required to satisfy himself before issuing a permit to the trader that such a person has his only or principal business the sale of vessels including fast launches. You will recall, Mr Speaker, that as the net effect of the introduction of the original Fast Launches Ordinance a number of anomalies arose which virtually not just restricted, which was the intention of the original Ordinance, certain fast launches from operating but it also created an anomaly in respect of bona fide visitors coming into Gibraltar or bona fide businesses from carrying out their legitimate business and what we are doing, from experience and from representations made to us by the trade, is going a long way to correcting that anomaly. I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, on the face of it, this proposed legislation is logical. It does seem to us that a bona fide potential purchaser of a launch should be able to satisfy himself that that is the sort of vessel that he wishes to purchase. After all, it is the case that when one purchases a motorcar you are able to test it beforehand to satisfy yourself that you are happy with it. Likewise it does seem logical that for the purposes of establishing the seaworthiness of a vessel the company that is permitted to use it or sell it should be able to satisfy themselves of that. I am slightly worried though about some possible abuse, whether this could be open to abuse and whether, in fact, a loophole is not being created. The Minister spoke about the Captain of the Port having to be satisfied before he exercises his discretion, but one does have a slight nagging doubt about it. We will not be voting against or abstaining, we will be supporting the Bill but it is just a lingering doubt that we have and I would invite the Hon Minister, when he exercises his right to reply, perhaps to let us have his own views on the point as to whether it could, in fact, be open to abuse.

HON P C MONTEGRIFFO:

Mr Speaker, I have no difficulty in supporting the Bill in the context in which it is put to this House on the basis that clearly a purchaser of such a vessel has a legitimate right to confirm its seaworthiness and matters related thereto. I do not know why the Minister thinks that we are all disappointed by the Bill. There are some people who feel that perhaps on the question of fast launches other legislation could also be looked at, but from the point of view of the question of abuse which I think is the point which we are focusing on this morning even under the present Rules, would I be correct in saying that there would be a discretion in the hands of the Captain of the Port not only to issue the permit in the first place but to revoke it if circumstances were brought to his attention during the course of the life of the permit rather than having to wait for the life of the permit to expire? I am not sure if the present Rules encompass that. Maybe they do under the principal Ordinance but if not, Mr Speaker, it might be something which the Attorney-General could consider wording into the section to give the Captain of the Port a complete and unfettered discretion both on the issue and on the revocation of the licence should he feel the circumstances warrant that.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, to be quite frank, when the Bill was actually being drafted and we were discussing its effects, the natural instinct was to say whether this could create a loophole. We are satisfied that it does not and, in fact, the Captain of the Port has powers to revoke the permission should such an event take place. Let me say that since the Fast Launches Ordinance was introduced the net effect is that, in fact, no licences have been issued at all. So the Fast Launches Ordinance has met all the requirements that made the law necessary in the first place. That in itself speaks for itself. Therefore the Fast Launches Ordinance well covers the possibility of any abuse on the part of anyone. But in terms of being able to revoke the permit, that will be possible, if necessary.

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

HON M A FEETHAM:

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

THE GIBRALTAR COINAGE (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Coinage Ordinance, 1990 be read a first time.

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I move the Second Reading of the Bill to amend the Gibraltar Coinage Ordinance. The purpose of the Bill is to introduce into the Ordinance the power of the Governor to make Rules to deal with the situation when a coin ceases to be legal tender. A situation we will, for example, be facing with the change of style of the five pence coin. Rules will be needed to deal with the withdrawal from circulation of the old style coin. As this is a situation we can foresee happening on a number of occasions in the foreseeable future, we are making provision for it in the Ordinance in advance to ensure that the matter can be dealt with smoothly. I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

It does seem, Mr Speaker, to be manifestly logical that if the Government of Gibraltar has powers to mint coins that it must also have powers to have those coins demonetised or withdrawn from circulation. In the past, having regard to the fact that the coins that have been legal tender in Gibraltar have been United Kingdom coins, they were demonetised as a result of orders made in the United Kingdom. Thus when we went decimal, for instance, it was legislation emanating from the United Kingdom which required that those coins be withdrawn from circulation. But if the Gibraltar Government wanted to take a unilateral step in withdrawing from circulation certain coins or, indeed, if we are going to be minting, as we are now, our own penny and if the penny is withdrawn by the United Kingdom then unless the Gibraltar Government makes an order for the Gibraltar coin to be demonetised that would not be the case. So where powers have been obtained to do one thing it is logical that we should also have them to do the other, namely, to demonetise and therefore we support the Bill.

HON P C MONTEGRIFFO:

Mr Speaker, just to say that we support the Bill and there is nothing further that I can add.

MR SPEAKER:

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

HON M A FEETHAM:

I have nothing to say, Mr Speaker.

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

HON M A FEETHAM:

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

THE GIBRALTAR COINAGE (ECU) ORDINANCE, 1990

HON M A FEETHAM:

Sir, I have the honour to move that a Bill for an Ordinance to authorize the issue of ECU coins by the Government of Gibraltar, to provide for such coins to be legal tender for payments of the amounts specified and for matters incidental thereto be read a first time.

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a Bill that I am indeed delighted to be moving through the Second Reading. It represents for us a breakthrough in our relations with the United Kingdom and with the European Economic community. It continues to consolidate our identity in the European context and is our further contribution to the European ideal. This House will also be pleased to learn that Brussels were, in fact, the first to give its blessing with the United Kingdom granting it subsequently. This is significant and ought not to be underestimated by the House. Whilst this Bill will not have the effect of turning Gibraltar into a nation of ECU shoppers and shopkeepers, it will allow us to issue as legal tender ECU coins giving us

an opportunity xxxxxxxxxxxxxxxx [text missing] xxxxxxxxxxxxxxxxxxxx to the European Economic Community and, also, at a practical level, giving us an opportunity to mint coins which are of substantial collectable value. The House will understand that significantly in terms of the ECU we will be an addition to the twelve other Member States. You will see from Clause 5 of the Bill, Mr Speaker, that it is not intended that the ECU coins shall appear in Main Street. It is, however, important to appreciate that the coins shall be legal tender. Steps are now being taken with the preparation of the design, etc for an early issue. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON G MASCARENHAS:

Sir, we welcome this Bill and for the reasons that the Minister has said, it establishes an identity within the European Community for Gibraltar. I wonder how far advanced we are in respect of the other European Nations, particularly the United Kingdom, and whether we are first on this or not? I wonder if when he exercises his right of reply the Hon Minister could inform us. But for the reasons that he has stated we support this Bill wholeheartedly. We know that it will not be used in Main Street but certainly the collector value will be there and perhaps the Minister could tell us what demand he has gauged there could be for these coins. Mr Speaker, the Hon Leader of the Opposition has just reminded me that perhaps we should also say that on the political front this establishes, within the identity that will be established, perhaps when the issues of our exclusion come up and may reinforce our case.

HON P C MONTEGRIFFO:

Mr Speaker, I warmly welcome the Bill. But I think it is important just to clarify for the purposes of the debate, that as far as I understand it, and the Minister will confirm, that all that the Bill is doing is that it is allowing for the issue of coins which are Gibraltar ECU's but is doing nothing in what is already something which Gibraltar is entitled to benefit from which is the recognition of the ECU as a currency in the transactions which Gibraltar may today undertake. For example, as far as I am aware and the Attorney-General may seek to confirm this that if today somebody wants to pay in ECUs, if somebody wants today to seek a bank loan in ECU's and repay in ECUs that that is something which Gibraltar is entirely entitled to and the publication of this Bill, really, is an addition to that reality already. The other question which I was going to ask is I understand that the coins are not meant for circulation in Main Street but the provision of the

coins not being allowed to be used for the payment of a sum of less than £2,000, is that something that arises directly out of an EEC Directive or Regulation or is it a figure which the Government has set of its own volition? I assume that what is envisaged is that these coins be purely a collector's item. If not, is there any reason why the £2,000 limit is in fact there? Are we bound by an EEC Directive or by a Regulation to that effect or is it a figure which the Government itself has decided to alight upon because it is convenient? I would have thought, Mr Speaker, that to give the Government more flexibility words to the effect "that the coins shall be legal tender in Gibraltar for the payment of such amounts as may be prescribed from time to time". Would this not be preferable? Unless there is some EEC Directive or some other matter which compels against that.

HON CHIEF MINISTER:

Mr Speaker, I just want to give an answer on the question of the £2,000 in respect of the payment of legal tender. When I visited Brussels and I had a meeting with members of the Commission, we raised the question of the issuing of ECUs. There have been ECU coins issued elsewhere in the Community which have been limited circulation Commemorative Coins. We are providing, in fact, that the coin be legal tender which enhances the value of the coin from the point of view of it being a collector's item. But, in fact, although the Community was quite enthusiastic about the idea of Gibraltar being the first to do it, they were less enthusiastic about the possible idea that we might have 320 million Europeans all paying each other with Gibraltar issued ECUs and therefore they advised us that they would be happier if we actually restricted the circulation of the ECUs until other people caught up with us.

HON P C MONTEGRIFFO:

Mr Speaker, .....

MR SPEAKER:

If the Chief Minister will give way you can speak. If the Chief Minister has finished speaking he will give way.

HON CHIEF MINISTER:

Mr Speaker, I was just answering the point that was raised but if the Hon Member needs further clarification I will give way to him.

HON P C MONTEGRIFFO:

Only to ask the Chief Minister to confirm that therefore the way in which the restriction is being imposed is really through the question of the ceiling of payment which the coins can be used for rather than the number of coins that can be issued which presumably is subject to other controls.

HON CHIEF MINISTER:

Well, I think that is, in fact, crystal clear from the wording. It says: "the coins shall be legal tender in Gibraltar for the payment of an amount of not less than £2,000". It does not say anything about the denomination of the coin. What it says is that you cannot go on the bus and pay your bus fare with an ECU. There is nothing legally stopping us doing that in Community law but given the fact that for us it was important to be doing something which would be well received in Brussels rather than upset people there, when we discussed it with them they said: "We think it is a very good idea if Gibraltar gives an example to the rest in issuing ECU denomination coins which will be legal tender but because theoretically the ECU is, in fact, legal tender not just in Gibraltar but throughout Europe, we would prefer that you do not actually do it in a way that you encourage the replacement of the national coinage by the ECU because then you could find yourself in a situation where other people could say 'Well, what is Gibraltar getting up to, flooding the whole of the Community with hundreds of millions of ECUs?' And although it would certainly have done wonders for our budgetted deficit I was not able to persuade them to change their minds.

MR SPEAKER:

If there is no other contributor I will ask the Mover to reply.

HON M A FEETHAM:

Mr Speaker, two points. I have the feeling that we gave the impression that we were not doing anything very important or very significant. Let me say that not all Member States have yet produced their ECU and we will obviously be one of the first. In fact, in terms of legal tender we could well be the first and that is important. In fact we are in competition with Mrs Thatcher to see who introduces it first, the UK or us. We think that we will do it before the United Kingdom. That is what we are projecting to do. I think the Chief Minister answered all the other points.

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

HON M A FEETHAM:

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



THE HOUSING (SPECIAL POWERS) (AMENDMENT) ORDINANCE, 1990

HON J L BALDACHINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Housing (Special Powers) 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. Mr Speaker, it is clear that the objective that was set on the Housing (Special Powers) Ordinance will not be carried out as they are now set out for the simple reason that if you look at the paragraph "to serve a notice" on somebody who is not legally in a flat for 270 consecutive days, that person has to be given notice by securing it to his front door and also by a registered letter that is to be sent. We have found difficulties, since we came into power, and I have also been told that difficulties also arose under the previous administration. Flats could not be taken over from people who were not residing in the flat precisely because you cannot serve somebody a registered letter if he is not living there. We went to Court recently and we lost the case precisely because of that reason. The intention is, Mr Speaker, that are now changing to the need to put a notice on the door or the word "and" is deleted and we are replacing it by the word "or" precisely so that it can be clearly taken as being legal if you put a notice on the door only. We feel, Mr Speaker, since it has been brought to our notice that there are many Government rented flats in Gibraltar which are lying empty and we feel that if anybody is allocated a Government flat it should be there for the enjoyment of the people who reside there and not, as in some cases, as a second home. That is the objective of this amendment. The other thing which is a minor amendment is that in the Ordinance, I think, that the year meant from June to July and therefore if we found that somebody was not residing in his flat in April then we had to wait until June to carry out any eviction proceeding. So we are now making a clear distinction of what the year means. It means any period of twelve consecutive calendar months. The other thing is that it was very difficult for us to prove whether a person was living there or not because the neighbours, even though they come to my Department and tell me that the premises are empty are not prepared to come forward if we have to go to Court. What we are saying is that the onus must be on the tenant to prove whether he is residing or not. Let me make it clear, Sir, that this does not give my Department any great powers because if we look at the

Housing (Special Powers) Ordinance it means that before we can carry out this it has to go to the Housing Allocation Committee. It is then the Housing Allocation Committee that authorises the Housing Manager to serve a notice on the person. I think this amendment is necessary, Mr Speaker, for the reasons that I have given and I commend the Bill to the House.

MR SPEAKER:

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

HON K B ANTHONY:

Mr Speaker, we have no difficulty in supporting this Bill. We agree fully that the anachronism of the 1st July to the 30th June should be replaced by a period of twelve consecutive calendar months. This makes a lot of sense and it makes it much simpler to understand and it will also, possibly, assist in the situation where somebody perhaps moves into a tenancy to help out somebody who has been very ill and the person then dies and they try to continue the tenancy which is against the present allocation system. On the amendment to section 4 where the onus of proof lies with the tenant, although this is going in principle against the idea that one is innocent till proved guilty, we do agree with this because it is very difficult, and we understand this fully, to prove that somebody has not been there and making the tenant prove, in his own way, that they have been there for 270 days out of the year, we think this is a fair responsibility for any tenant who is bona fide. On the substitution of the word "or" for "and". The choice between serving a letter by registered post or putting a notice on the door. I can understand fully the logic that it is difficult to send a letter by registered post to an absentee tenant and I fully understand this but at the same time I can also see the problem that if you put a notice on the door this is not like putting a notice on the mast of a ship which is going to remain there. On a door it could be removed, it could be taken off, not maliciously, maybe by children who see it and pull it down and I would not like to see this becoming the standard of only putting notices on doors. I would like to see the system of a registered letter where you get the signature from the tenant, if that is possible, as well as the notice. I would prefer to see both. Perhaps the Minister can tell me when he exercises his right of reply. Mr Speaker, we however support this Bill.

HON P C MONTEGRIFFO:

Mr Speaker, I welcome the Bill wholeheartedly. I think that the idea that there should be Government flats vacant in circumstances of this nature is scandalous and that any moves that can be introduced to make sure that the full use of such properties is put to tenants that require it is

necessary. What I would ask the Minister to clarify, if possible, is could he indicate how many numbers of people or how many flats he has information, in fact, are affected by this problem of absentee tenants which it is difficult for the Government to track down and which therefore places on the Government the possibility of re-renting those flats to other legitimate tenants? Has the Government got a figure of the extent of the problem that it is facing?

MR SPEAKER:

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

HON J L BALDACHINO:

Mr Speaker, in answering the queries raised by the Hon Mr Anthony, precisely why we just amended the word "and" for the word "or" and we left the letter of registration is because we intend to carry out both. However the Courts will then see that we have served the notice in one way or other. If the Hon Member has my other suggestions we are open to hear them at the Committee Stage. The question raised by the Hon Mr Montegriffo as to the number of flats, Mr Speaker, we do not have a clear figure because we are just going by what people tell us in the Housing Department and it is very difficult for us to carry out checks unless you stand outside the door for 270 days which is virtually impossible. Therefore we are just going by rumours even though there are a couple which we have been able to prove that there are no people living there and we have not been able to proceed to recover the flats. That, at this stage, is virtually impossible for me to tell the Hon Member a figure because we are just going by rumours.

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

HON J L BALDACHINO:

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

THE POLICE (AMENDMENT) (NO. 2) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, may I, first of all, suggest that this is a simple straightforward Bill with which I hope Members will have no difficulty. Recently a new Disciplinary Code for Police Officers has been put into operation replacing the Disciplinary Code formally contained in Regulation 18 of Police Regulations which came into effect as long ago as the 1st January, 1962. Clause 2 of the Bill which amends Section 34 of the Police Ordinance which relates to Police Officers who are guilty of disciplinary offences and Clause 3 of the Bill which amends Section 35 dealing with the punishment which can be awarded to Police Officers in such circumstances, are amendments merely to reflect the coming into operation of the new Disciplinary Code. Clause 4 of the Bill, which amends Section 50 of the Ordinance, dealing with unclaimed property is more fundamental, Mr Speaker. At present the procedure is considered to be very cumbersome because every Police Officer has a statutory duty to take charge of all unclaimed property and to furnish an inventory or description hereof to the Magistrates' Court. Under the legislation as it exists at present, it then becomes the obligation of the Magistrates' Court to post a notice, and without my going into explicit detail, Mr Speaker, thereafter shall follow a particular lengthy procedure which is set out in the present Section 50 of the Ordinance as it exists at present. The Gibraltar Police Force has found this particularly onerous and the amendment seeks to dispense with the involvement of the Magistrates' Court and make the Commissioner of Police responsible for dealing with and disposing of unclaimed property. The prospective subsection (2) will empower the Commissioner to make rules for a proper storage and disposal of unclaimed property which, of course, can be changed from time to time to reflect practical experience in dealing with this particular problem. The rules are at present in the course of preparation, Mr Speaker, and will naturally come into operation at the same time as the Bill is brought into effect. Mr Speaker, this Bill has been prepared in an endeavour to alleviate problems specifically brought to the attention of my Chambers by the Commissioner of Police and I hope will have the support of Members on both sides of the House. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON G MASCARENHAS:

Mr Speaker, just to say that we support the Bill. It is purely of an administrative nature and certainly there is no principle at stake and for that reason we shall support the Bill.

HON P C MONTEGRIFFO:

Mr Speaker, I support the Bill but could I ask that I assume it to be the case that the rules which will be set up by the Commissioner and as explained may be prescribed by Regulations will be gazetted? Secondly, Mr Speaker, the amendment to Section 50 which really does away with the requirement of the Magistrates' Court in the disposal of property, etc, in the new rules it clearly gives the Commissioner of Police power to actually dispose of the property? It says "for the proper storage and disposal". I assume it is the Commissioner of Police who will take over the responsibility for actually itemising in some public fashion what has been delivered to him by way of unclaimed property. I assume it must but I am just suggesting that the wording is not particularly appropriate in that respect? It states "the proper storage and disposal". I know that below it says, in subparagraph (b): "for the notification of the intention to dispose of such property" and the method of its disposal. But it focuses, Mr Speaker, on the question of disposal rather than on the procedures that will be introduced in the giving notice to the public that certain unclaimed property has been delivered.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, I am grateful for the support of all Members on the opposite side of the House. I think the Hon Mr Montegriffo will find that all will be revealed when the Rules are drafted and finalised. They will, indeed, be published in the Gazette and will, I am sure, satisfactorily cover the points which the Hon Member has raised. Sir, I do not think I need add anything further.

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 the adjourned meeting of the House.

THE LEGAL AID AND ASSISTANCE (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, it is my honour and privilege to present this Bill to the House which has already received some measure of publicity. The financial constraints on eligibility for civil legal aid in Gibraltar surprised me when I first came here and have concerned me ever since. I can also say that it has concerned the Government who had been considering for some time the legal aid position generally and how it could be improved. Insofar as income is concerned, the present threshold is £700 a year which is less than £15 a week. That, Sir, precludes virtually everyone in Gibraltar from eligibility for civil legal aid. The proposed raising of the threshold to £5,000 per year represents an increase comparable with the increased levels of income since the figure was last revised and will thus bring into the perimeters of those eligible a significant number of people. Future variations would take place by notice given by the Governor published in the Gazette as will be the case in respect of any variation of the capital figure which at present stands at £350. Mr Speaker, this is the first material amendment to this Ordinance for some very considerable time and I personally welcome it wholeheartedly. A number of people have written to me and telephoned me since the decision to put forward this Bill was announced and the fact that the Government has now taken the step is clearly popular amongst the public and I hope popular with this House generally. I am sure, Mr Speaker, that the matter will be kept under review as to how the system can continue to be improved for the future to the benefit of those persons who do need legal assistance but simply do not have the means to pay privately. The Bill provides for the necessary ease and flexibility to amend the financial limits from time to time. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we will support this Bill and we will vote in favour. However, I wonder whether, in fact, it goes far enough for the reasons which I will explain and perhaps the Government may reconsider the figure of £5,000 which is being laid down as the maximum gross income for someone eligible to legal assistance. It is extraordinary, Mr Speaker, that no one thought it fit for very many years to bring to the notice of the Government the need to amend this provision. From the page in front of the Legal Aid Ordinance, it appears that this Section 13 was last amended in 1973. At that time, Mr Speaker, in 1973, I have taken the trouble to research that the figure of £750 stipulated at the moment in the law was, broadly speaking, the basic wage of a labourer. A labourer in 1973 was earning £14 a week which is £728 a year in line with the figure of £750. I imagine that the figure of £5,000 which is being proposed in the Bill, has been arrived at by calculating what, broadly speaking, would be an equivalent figure today to the £750. I imagine in line with inflation and in line with the loss of the value of money over the years. There are however other ways of looking at it and which I would suggest to the Government, and perhaps they might reconsider having a higher figure. At present the basic wage of a labourer is £129.42 a week and that is therefore a figure nearer to £6,500, exactly £6,760 would be an equivalent annual income. The other way of looking at it, of course, also is that in April, 1989, average earnings of a full-time weekly paid industrial worker stood at £182 per week which is over £9,00 a year. Therefore, I think the point that we still have to ask ourselves is who will, in fact, qualify with a gross income threshold of £5,000 a year? Obviously many more people than who qualify now, that is clear, but in practice, any person in full-time employment would not qualify because anyone in full-time employment would have a gross annual income in excess of £5,000. That is my reading of the situation. I would commend to the Government that they take these points into account and unless there are very good reasons why they feel that they must stick to the figure of £5,000 perhaps they might consider amending it and setting it at a higher level.

HON P C MONTEGRIFFO:

Mr Speaker, I agree entirely with the comments made by the Leader of the Opposition on this matter and it would be helpful if there was an explanation given as to how the figure of £5,000 was arrived at. Although, notwithstanding what the explanation will be, £5,000 must be better than £750 and I will support the Bill in any event. I also want to make the point that in line with what the Attorney-General has said, I think there is a need for a general reform of the procedures involved in the processing of legal aid. I know the Attorney-General has his views as to the lack of scrutiny which presently may exist in the

granting of legal aid and in the United Kingdom, for example, there is much closer inspection of applications for legal aid which can filter out those cases that merit assistance. I would just urge the Government, if it is going to raise the ceiling of the eligibility for legal aid in the way that this side of the House is suggesting, that on a parallel basis it introduces more appropriate methods of scrutiny since otherwise we are actually going to end up with a complete reversal of the present situation. A situation where people who are perhaps in full employment can apply for legal aid but ignore the proper process of scrutiny to ensure that if legal aid is granted that there is a case with merit which will be the subject of the support of public funds.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, I readily acknowledge and I said so in my speech at the Opening of the Legal Year that I would like to see in Gibraltar, in due course, legal aid and legal assistance similar to that which first was established in England and Wales in 1948 and has been gradually developed since then. But I think it is going to be realistically a long time before we can expect any Government who is constrained to managing Gibraltar on a sum of money substantially less. I think everyone will readily agree that £750m which was spent on legal aid and legal assistance in England and Wales for the year ending 31st December, 1989, and that is the figure which the Lord Chancellor, Lord Mackay, is within the last few days on record as having announced the expenditure of legal aid in the United Kingdom to be. I think the Government should be commended, Mr Speaker, for taking this step to substantially raise the existing limit because whichever way one looks at it there is tremendous difference between £750 per year and £5,000 per year which, as I have said, the former precludes the entire population from any question of eligibility. I am told, Mr Speaker, that in the Employment Survey which has fairly recently been carried out, has revealed that 7,000 people in Gibraltar.....

HON M A FEETHAM:

Several thousand.

HON ATTORNEY-GENERAL:

Several thousand, I beg your pardon, several thousand in Gibraltar are earning less than £5,000 per annum. So I think there is little doubt, Mr Speaker, that the number of people who will be financially eligible for civil legal aid will be increased if this Bill, even in its present form without any amendment, as suggested by Hon Members opposite, should be enacted in due course.

HON A J CANEPA:

If the Hon Member will give way. Amongst those several thousand would be quite a lot of minors, younger people. Apprentices, for instance, who do not get an adult wage. But if we divide the figure of £5,000 by 52 we arrive at £90-odd a week. The people in full-time weekly employment who are earning less than £90 per week are bound to be the younger people.

HON J C PEREZ:

I can only intervene if the Hon Member will give way.

HON A J CANEPA:

I will give way to the Hon Mr Juan Carlos Perez.

HON J C PEREZ:

Basically when the figure of £14.50 was put in 1973 the lower paid people were in the public sector and not in the private sector. The reverse became true after parity was introduced and therefore the figure of £5,000 takes into account the introduction of the national minimum wage in Gibraltar which falls below the £5,000 and where a category of people of something like 2,000 to 3,000 fall. I think the Hon Member is looking at public sector wages only and not taking into account that in the private sector there are still a lot of people who are rather lowly paid. Apart from that, of course, in the catchment area of the £5,000 you have got people on supplementary benefits, people on old age pension, those who are most needy in our society and that is the area we are catering for.

HON A J CANEPA:

The problem that comes to mind is that they are precisely the group of people who are less likely to need legal aid. I would imagine that old age pensioners are less likely to do so. I appreciate the point about people on supplementary benefits. If people on supplementary benefits are at the moment, by the income limit, totally excluded to be able to bring those within the new parameters then that is desirable. Anyhow, it is a matter for the Government and we will vote in favour. Perhaps I would commend that the

situation should be monitored over a period of time and if we find that in fact very few are qualifying then the limit could be raised.

HON ATTORNEY-GENERAL:

Mr Speaker, my understanding is that the Government do intend to do that very thing, to keep a close watch on the situation and that is the reason for providing, in the Bill, the necessary degree of flexibility to amend by notice in the Gazette the financial limits, which are deemed to apply, from time to time without the necessity of coming back to this House each and every time it is desired to effect an amendment. But one has to take into account, Mr Speaker, and commensurate with my duty to the public and to see that their legal interests are protected, I fully take into account the fact that the amendment which is being affected by this Bill is an unknown quantity to the Government insofar as finances are concerned. We can look back at statistics for previous years, certainly right back to 1973 if we wish to, when the financial limits, as the Hon Leader of the Opposition has quite rightly said, were last amended and it is disconcerting to realise that they had not been amended since 1973 and nice to see that they are being amended now. But what that will cost the Government, of course, remains to be seen. Obviously the Hon the Chief Minister and the elected Members of the Government will wish to see what the amendment is going to result in in terms of increased cost to the Consolidated Fund and take it from there. Mr Speaker, I feel it is a step in the right direction and I am very grateful, subject to the qualifications I expressed, to all Members opposite for their support.

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 the adjourned meeting of the House.

#### THE SAVINGS BANK (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Savings Bank Ordinance provides that deposits held in the bank relating to a deceased person should only be distributed in restrictive circumstances. One of those restrictions intended to protect the estate of the deceased pending production of probate of the will of the deceased or Letters of Administration by limiting any immediate distributions of more than £1,000. However, with the passage of time and increases in cost, the existing limit of distribution of £1,000 has become unrealistic with particular regard to financing the funeral expenses. It is therefore proposed to raise the figure to £2,000. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, we support this Bill. It makes entirely good sense. Unfortunately, the cost of dying is going up and up.

HON P C MONTEGRIFFO:

Mr Speaker, I support this Bill too but could I ask the Hon Financial and Development Secretary whether the point I raised has in fact been addressed. My understanding is that what the Bill does is it applies only in respect of deposits in the Savings Bank and will allow the disbursement of up to £2,000 to take place. Surely, in the vast majority of cases, most people will have their money in the commercial banks and if what we are trying to do is to avoid problems for the family of somebody who dies in order to be able to have funds for the funeral expenses would it not have been more appropriate, Mr speaker, for an amendment to have been effected to, say, the Administration of Estates Ordinance which would have allowed a figure of up to £2,000 or such other figure as the Government thought reasonable, to be deducted from any bank account in Gibraltar previously to have been owing to the deceased? Otherwise although we are providing a solution to people that have accounts in a Savings Bank if you have an account in, say, Barclays Bank or Natwest you will still suffer the same hardship. As I say, Mr Speaker, I would support the measure if it would take us a little bit further and I would have thought that by an amendment to either the Banking Ordinance or to the Administration of Estates Ordinance giving authority by statute to all the banks to disperse up to this figure in circumstances similar to what is now envisaged in the Savings Bank Ordinance.

HON ATTORNEY-GENERAL:

Mr Speaker, I think I can offer some limited assistance to the points the Hon Mr Montegriffo has raised. The House can recollect, I am sure, not so long ago amending the existing legislation relating to deposits in Building Societies to increase the amount which can be paid without a grant of probate or Letters of Administration in respect of a Building Society deposit and I cannot remember whether the same Bill made a similar amendment in connection with deposits placed at commercial banks. It may well be that commercial banks are covered by other legislation. I regret I cannot specifically recollect but I will, of course, check. I think perhaps not. But the Administrator General's Office brings to the attention of my Chambers from time to time, Mr Speaker, problems which arise about payments of monies held on deposit to the person's representatives of deceased persons and legislation is drafted in accordance with representations made to endeavour to meet those particular problems and my Chambers have not been presented with any representations concerning any difficulties arising from deposits in commercial banks in relation to the estates of deceased persons. So it may well be, Mr Speaker, that deposits in commercial banks, as a general rule, greatly exceed the figures to which we have raised deposits in Building Societies and in the Savings Bank insofar as payment without production of a grant of representation is concerned.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. I thank Hon Members for their general support for this Bill. We are clearly addressing the Savings Bank since it is in the direct management of the Government and we are addressing that specifically. But I do take the general point which has been made about the commercial banks and we will take the point away to examine.

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 the adjourned meeting of the House.



THE AUDITORS REGISTRATION (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the existing Auditors Registration Ordinance provides for supervision of the Register and applications for registration by an Auditors Registration Board appointed by the Governor. In the light of his overall supervisory capacity it is considered appropriate to transfer to the Financial Services Commissioner the functions of registering Auditors. The audit function is an essential element in monitoring the robustness of activities undertaken through Gibraltar registered companies and it is felt that registration of such persons should be seen as an important undertaking for the Commissioner. It is therefore proposed to give this power to a newly constituted Auditors Registration Board which shall be chaired by the Commissioner who will be supported by two other suitably qualified individuals. It is also considered that such registration should be on an annual basis to ensure ongoing scrutiny. This is provided for in Clause 3 of the amending Bill. Consequently, the registration fee has been changed from a one-off to an annual basis fee. An annual fee of £100 is proposed which will subject to review by the Governor as appropriate. The income from this charge will form part of the revenue of the Commission. In the light of the general level in the increase of fines since the Ordinance was last reviewed, it is proposed to increase the fine for false or forged representation in an application for registration from £500 to £5,000 and from £20 to £200 where a person who is not registered holds himself out as being so. Mr Speaker, appeals against the decisions of the Auditors Registration Board shall be as hitherto, to the Supreme Court. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, we on this side support this Bill in principle. But there are one or two points of a relatively minor nature which perhaps the Hon Financial and Development Secretary might clarify. The first one was whether consideration was given to the powers of registration being given to the Financial Services Commission rather than setting up another Board under the Commissioner. Perhaps the Government has already recognised this in a way by saying that the revenue that it hopes to attract will go towards the Financial Services Commission. The second point is one of consultation. I know that in the established legislation consultation is with the Gibraltar Society of Chartered and Certified Accountants but as I am sure Members know there is a second body known as the Gibraltar Association of Accountants and Auditors which essentially covers both sides of the Part I and Part II of the present Register of Auditors where the member of each Society belong either to Part I or to Part II. In fact, the Government is recognising the importance of those members of Part II of the Register of Auditors by legislation that it is bringing to this House later on this morning in which it is, I understand, giving them greater powers. So I would put it to the Government that this second body is also worthy of consideration, if not at this stage then by amending legislation at some later stage. A final point, Mr Speaker, obviously, the increase of £25 to £100 making it on a yearly basis instead of a one-off, will increase the revenue of the Government but I am told that it may not increase by the number of people who are on the Register of Auditors at the moment because partnerships and the larger groups of companies having auditors need not register all the people on their staff as they have at the moment. They may only register those senior partners who actually sign the accounts. So the numbers that may be envisaged at the moment may not work out in practice. Thank you, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, just to say that I support the Bill. The point which concerns me most is the £100 fee. My understanding is, and maybe the Financial and Development Secretary will confirm this, that under the present Auditors Register a firm like Spicer and Pegler, Ernst and Young, Coopers and Lybrand, etc may register as a partnership. Details, as far as I am aware, Mr Speaker, are given of the partner's residence in Gibraltar or the partners that constitute the Gibraltar partnership but for the purposes of exemption under the present Rules and for the purposes of the Register you simply talk about the main partnership which means that you could have a lot of people doing a lot of work in an office but only have one entry in the Registry. A sole practitioner will have Mr Smith down and he will pay £100. This is the same as a major partnership firm who only registers a partner. I think what Colonel Britto is saying,

quite correctly, at least this is my own view, that there is an element of unfairness I think the Government should look towards making sure that the bigger partnerships pay an equivalent amount because I think that if we simply have a registration system where the fee the one man practitioner pays is exactly the same as a firm with seventy or eighty staff, many of them accountants, then there is something wrong with that system.

MR SPEAKER:

If there are no other contributors I will ask the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the reason why we have dealt with the proposal in this way, that is that by extending the powers of the Commissioner rather than extending the powers of the Commission was because when the Financial Services Ordinance was promulgated last year it was not at that stage envisaged that the Audit's function would be brought within the Commission. Therefore at this stage it was felt in many ways to be easier to amend the existing legislation to bring the Commissioner into force under that legislation. I however take the point, Sir, about the consultation with this further body of accountants. I understand that consultation did not take place and I shall certainly make sure that before the Committee Stage we have opportunity to comment or convey any views that they have. I can confirm the point that Mr Montegriffo was commenting about concerning the Register. The situation at present is that it is the firm that registers and this point has been made to me that the effect of this specific form of amendment that we are proposing could actually reduce Government's revenue in certain circumstances. I think that this is a fair point, Sir, and I will take it away for consideration. I will then reply at Committee Stage.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

THE INCOME TAX (AMENDMENT) (NO. 2) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill draws together several proposals which are designed to streamline and make more effective several provisions of the Income Tax Ordinance. In Clause 2 provision is made for a formula to be applied to the Building Societies interest receipts for the purpose of calculating net taxable income where that interest is generated from loans financed from the Society's funds coming from outside Gibraltar. This will most often arise in the case of finance supplied from the headquarters of the Building Society. The formula is not, in itself, meant to be concessionary. The intention is simply to provide a degree of certainty of treatment for the Building Society and to reduce the detailed investigation and debate in such cases for the Commissioner of Income Tax. The formula is based on a fairly typical gap between interest rates paid and charged by a Building Society with the deduction for the cost of raising the finance which in the circumstances provided for, will have been incurred by the headquarters organisation. Clause 3 introduces a wider flexibility for the Commissioner in requiring withholding of tax on interest. Under the proposal he will be able, amongst other things, to limit any such requirements to a specific time period. Furthermore, it is provided where tax is withheld in this way the tax rate applied on withholding shall also define the ultimate liability for tax. This latter provision will be helpful in bringing certainty to the tax position in respect of such interest where, for example, the recipient may be another country where it might otherwise be difficult and time consuming to calculate tax liability. Clause 4 clarifies that the tax rate applicable to qualifying companies shall be between 2% and 18% regardless of the distinction between the remitted and unremitted element of income which is hitherto being made. An earlier amendment to the Ordinance has had this practical effect but has caused uncertainty in the way it was expressed. With the omission contained in (b) of Section 4 flexibility is introduced to tax a qualifying company on interest earned under the withholding arrangements referred to earlier. It is considered that circumstances may arise in which it is not only appropriate to levy a tax but it is also in the interest of all

concerned that they should be so taxed. Clause 5 is proposing an important addition to the armoury of the Commissioner in his efforts to collect properly payable tax. It allows tax liability from, for example, PAYE deducted by a company to be enforceable as a debt against the Secretary and Directors of a company who will be regarded as an agent of the company for this purpose. This ability will create both a major disincentive to the building up of arrears of paying over such tax and an effective alternative means of proceeding where arrears nevertheless do arise. Clauses 6 and 7 replace the existing provisions of the Ordinance with regard to arrangements for ensuring payment of tax by subcontractors in the construction business with a power to the Financial and Development Secretary to prescribe Regulations to this effect. The collection of tax in respect of the construction business requires special attention in Gibraltar as it normally is elsewhere due to the complex inter-relationships and payment procedures between contractors and subcontractors. In general terms the existing provisions provide for tax to be deducted by the contractor and accounted for to the Commissioner of Income Tax unless an exemptions certificate has been issued. In the light of experience, it is considered that more comprehensive and flexible arrangements are necessary in this area to make tax collection more effective. The power to make regulations to this effect will give this ability. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, as the Hon the Financial and Development Secretary has already said, this is a Bill which covers three main different areas and therefore it is difficult not to go into some detail on the individual Clauses as, in fact, he has already done and I will try to avoid repetition as much as I can. We are not too certain on this side of the House, Mr Speaker, on how the figure of 15% has been established as opposed to the 35% for normal company tax that other companies are expected to pay and I am not too sure that I quite follow the Financial and Development Secretary's explanation on this. The other point is the new Clause 11A and the definition of the words "expenses incurred by the Building Society". Does the Financial and Development Secretary expect that there could be difficulty in defining what are deemed to be correct expenses and what could not be? Finally, on that point, Mr Speaker, I know there are already similar arrangements in the existing legislation for life insurance companies which are using finance from outside Gibraltar but is it the intention to make similar arrangements as, for example, for finance companies or banks or others who may be trading or intend to

trade using funds that are originating from outside Gibraltar? It seems to us that if we are distinguishing the Building Societies and the Insurance Companies then there are other bodies who may be liable for the same advantage to be given. Coming to the amendments to Clause 4, the amendments to Section 41, perhaps the Hon the Financial and Development Secretary could clarify how the discretion is going to be exercised in between the bracket of 2% and 18% as opposed to what we have at the moment which is a straightforward 2% or 27%. Is there now going to be discretion? I presume it is going to be by the Commissioner of Income Tax but perhaps he could clarify that and not only who is going to exercise the discretion but if guidelines are going to be laid on how the discretion is going to be exercised. On Clause 5 and the amendments to Section 53 of the Ordinance, whilst we accept, understand and agree that the directors of a company should be made responsible for the actions of the company and for its debts, as I think the Financial and Development Secretary has said, we think it is unfair and possibly unwise to extend this responsibility to the company secretary. For the simple reason that in many cases company secretaries are either employees of the company itself and have no hand in running the company and no responsibility for it or, in many cases, as I am sure Members are aware, they are simply a secretary or a clerk of a law firm or an auditor's firm who serves as a nominee for the company as company secretary. In those circumstances we think it is unfair that such a person who has absolutely no responsibility for running the company and no say in the matter should be put in such a position of responsibility. Finally, Mr Speaker, in respect of Clause 6 and the amendments to Section 67 of the Ordinance, I am afraid that the Official Opposition cannot support this section of the legislation. We will, in fact, not be voting against but abstain on the Bill and vote against this particular Clause at the Committee Stage. We feel that the principle that we have established so far of voting against any legislation that we feel takes away powers from this House and gives powers to the Government to legislate by regulation as this piece of legislation, in fact, does we cannot support. It is an important matter of principle for us and therefore, as I have said before, we shall abstain on the Bill and vote against this particular Clause at the Committee Stage.

HON P C MONTEGRIFFO:

Mr Speaker, I will be supporting the Bill inasmuch as although it does, to some extent, allow the Government to legislate by regulation to do what previously was partly done through the Ordinance, I think that the areas we are covering are areas of a largely technical nature where in a place of our size we require a degree of flexibility which might in some circumstances necessitate not coming to the House. Therefore, as I say, at least on the matters that are dealt with in these amendment to the Income Tax Ordinance, I have no difficulty and I will be voting in favour of all the

Sections. I would only want to make two points in respect of two of the Clauses. The first in relation to Building Societies. Would the Financial and Development Secretary confirm that what the provision could potentially do, and I am not sure this would create difficulties, is to some extent put the banks at a disadvantage in that, if I understand the provision correctly, and I stand to be corrected, because a major Building Society can import its funds will effectively be able to deal with a resident borrower on a possibly privileged tax basis whereas a bank that may also be in the business of financing mortgages if it is an 'A' bank will still have to pay tax at the full rate. I make that point, Mr Speaker, only to see whether the matter can be clarified. In any event it is not a matter which would induce me to vote against the Bill. The only other point, Mr Speaker, is in relation to the amendment to Section 53. Section 53 is the Section which allows the Commissioner to deem some other person an agent of a company for the purposes of the payment of taxes. I have real reservations about what the proviso does. I accept, Mr Speaker, that in appropriate circumstances the directors, I take the point of the secretary which has been raised by Colonel Britto, should be liable. However what this provision is doing is not allowing the Commissioner to extend his discretion to directors but automatically deeming every director to be an agent of the company for the purposes of tax. What I would like clarified is that I think it would be highly dangerous and undesirable that every single director of every single company operating from Gibraltar is automatically deemed an agent for the purposes of the collection of tax. What I do agree with is that every single director potentially can be deemed to be an agent by the Commissioner and the Commissioner should have full powers to ensure that such a director should be liable. But if I am, for example, as is quite often the case, a largely non-executive director because I am "Sir XX" and I sit on a Board of a particular company, to be automatically deemed to be an agent for the purposes of the collection of tax I think is unfair. I do not mind the Commissioner having a power to deem me an agent if circumstances so warrant but my reading of this proviso, Mr Speaker, if one reads it in the context of the present Section 53, is that it goes further than the present wording does. The first part of Section 53 says: "The Commissioner may by notice in writing declare any person to be the agent of any other person" etc. So he has the power to declare in writing. What this proviso does, it goes on to say: "provided", in other words, over and above that, "in respect of a company the secretary and each and every director of that company shall be deemed to be an agent". So it is really saying, you have no discretion in that matter, they are an agent straightaway and technically the only discretion the Commissioner has, I suppose, is in the institutional proceeding against the director for the liability but technically in law the director automatically has a liability. I think it is an important point inasmuch as I would not want to be seen to be going quite that far

because I think that is wrong in principle. I think, let us say "provided that for the avoidance of doubt each and every secretary of a company shall be capable of being deemed an agent by the Commissioner of Income Tax for the purposes of this Section" or words to that effect, Mr Speaker. Other than that I am happy to support the Bill.

MR SPEAKER:

If there are no other contributors I will ask the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, there have been a number of points made and I shall attempt to cover them all in turn. I think the first point that was raised was the question of the 15% and the basis of it. We arrived at 15% really by looking at what is a common gap between the interest rates the Building Societies typically pay and the rates that they charge to their customers and we found that a typical range of rates were between 20% and 25%, a gap of 20% to 25% between the two. Then looking at the typical expenses that the Building Societies incur in raising that finance, we thought it reasonable to allow between 5% and 10% for those costs. That was really how we arrived at 15% as being a reasonable approximation of the net cost to the companies of introducing that finance. I think also related to that point is the question of the banks, Mr Speaker. Let me emphasise again that this is not meant to be a concessionary system. That rate is meant to be a fair assessment of, by and large, the sort of tax rates that would be levied if the full calculation was done. It is simply meant to be a shorthand but a fair and realistic way of assessing the potential profits in those circumstances. In terms of the question of expenses, Mr Speaker, the Commissioner of Income Tax, let me assure you, is fairly well versed in the definition of expenses. It is always a problem that there is considerable case laws of what constitutes expenses in these circumstances and, quite frankly, I do not really see a problem in those areas. As to the question of banks and other finance type operations, in many ways, Mr Speaker, I take the point and one of the reasons why we are introducing this is that we can bring certainty and to cut out of the situation that we have at the moment of a lot of debate and a lot of problems in arriving at tax calculation. I am all in favour, Mr Speaker, of streamlining our income tax system as much as possible and bringing that degree of clarity. What we are doing, Mr Speaker, is to apply this to the Building Societies, in the first instance and if we find this is a success and if it does actually achieve what we are trying to achieve then by all means we will consider whether it can be applied to the other similar types of operations. In the meantime, because it is not meant to be concessionary, then there should not be any disadvantage to the other financial operations. As to the range of 2% to

18%, let me emphasise that all this Bill is doing is clarifying what is actually in the law at present. If one reads carefully the words there it does allow this discretion of 2% to 18% to be applied. We are simply putting this provision in there to make it clear to all the practitioners who have to deal with their potential customers that that is the case. As to the question of the responsibility of the company secretary that has been raised as potential agents and the question of directors of the company perhaps I can deal with these two points together. Can I confirm that my interpretation of the measure that we are introducing is as the Hon Mr Montegriffo has described it. All directors will potentially have the liability in respect of being an agent. I also can confirm, as the Clause specifically mentions that the company secretary has that responsibility. However in many ways, Mr Speaker, that is the point that we are trying to reinforce in people's minds with this legislation. That is the responsibilities they take on when they become directors and are employed as a company secretary of the company. Let me say that as a newcomer to Gibraltar I find the level of tax arrears we have here in Gibraltar unacceptable. We have to do something about the level of tax arrears if we are to get our tax and revenue base to the level of which we want to see it. All I can do, Mr Speaker, is to confirm that that is what the legislation does do and it is quite deliberate to reinforce that responsibility. I hope I have covered all the points that were made, Mr Speaker, and with that I commend the Bill.

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 P C Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

The following Hon Member was absent from the Chamber:

The Hon M K Featherstone

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 the adjourned meeting of the House.

THE GAMING TAX (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is seeking to tidy up what is considered an omission by oversight. The Gaming Tax Ordinance provides that tax exempt companies shall not be liable to general betting duty. This provision has practical effect, for instance, where betting is being carried out with non-Gibraltarians. There is considered to be no reason why this concession should not also apply to qualifying companies since the same restriction on the source of the betting exists. The Bill gives rise to this extension of the concession. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we will be supporting the Bill.

MR SPEAKER:

I will now ask the Mover if he wishes to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would simply like to thank Hon Members for their support, Sir.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

THE COMPANIES (TAXATION AND CONCESSIONS) (AMENDMENT)  
ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Companies (Taxation and Concessions) Ordinance be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Companies (Taxation and Concessions) Ordinance provides for an auditor to be appointed by a tax exempt company with special responsibilities for notifying any loans that have been made to the company by residents of Gibraltar. Practitioners in the finance centre have made the point that this requirement is ambiguous as to any wider responsibilities that may be deemed to be placed on the auditor so appointed and that uneven treatment is applied in practice in terms of the audit actually carried out. The removal of the special obligations in no way detract from the responsibility of all companies registered in Gibraltar to have their accounts audited, let me emphasise that, nor does it remove the obligation on Gibraltarians to declare for income tax purposes interest received. In any event if all the Gibraltarians with tax exempt companies through the machinery of loans is only one small consideration in the general question of tax exemption. It is felt, Mr Speaker, that a more broadly based acceptance of liability to observe the requirements of the tax exemption is appropriate. Therefore, a requirement is proposed for positive certification, on an annual basis, from the company secretary and a director all the criteria for tax exemption shall continue to be met. With proper follow-up this is felt to provide more effective comfort. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, it seems to us that there is a slight contradiction in introducing the concept of resident directors into exempt companies as this new paragraph appears to do. Perhaps the Hon Financial and Development Secretary can clarify that? My understanding is that exempt companies do not normally have resident directors but this Clause appears to imply that there will have in the future and we wonder whether the implications on exempt company business has been studied and what those implications will be and whether they could be adverse. The second point I want to make, Mr Speaker, is one that I have already made before and which the Hon Financial and Development Secretary has already answered. However, for the record I will reiterate without going into all the details and comments that I made before about company secretaries. These comments were in respect of the previous Bill but they apply to this Bill as well. Whilst we accept that directors should be totally responsible we think that in the circumstances of Gibraltar it is unfair and unwise to make company secretaries responsible. A third and fairly minor point, Mr Speaker, and perhaps it is a printing error, the Clause says: "The company secretary and the director". I take that to be an error and that it should be "directors", in the plural rather than in the singular. If it is not an error perhaps the Hon Financial and Development Secretary can clarify why it is just one director. Finally, Mr Speaker, perhaps the Hon Financial and Development Secretary can confirm that Clause 3 of the Bill by repealing Section 13 of the principal Ordinance what it does, in fact, do is to allow members who are on Part II of the Register of Auditors to carry out audits of exempt companies, something which I understand they have not been allowed to do up to now.

HON P C MONTEGRIFFO:

I will be supporting this Bill, Mr Speaker, subject to again a point of clarification on the wording. My reading of the initial part of the Clause was that indeed there was a typographical error but also it did not seem to square with the part in brackets. Where it says "the company secretary and the director at least one of whom shall be resident in Gibraltar" I assumed what the legislation was getting at, Mr Speaker, was that the director who has the obligation to submit the confirmation every year is that resident director because otherwise, although it is perfectly normal to have exempt companies with resident directors, what would not make sense the way this is now drafted is that really although you are saying at least one director has to be resident, you are not saying that if that resident director,



who is the one who has to report or confirm the matters set up in this paragraph. I assume that what the Bill is trying to do is to attach the responsibility on to a director who will be resident so that if he does not do so someone will be able to go to somebody's door, knock on it and say: "Why have you not produced this?" The way it now reads, Mr Speaker, you could have a director who is not resident in Gibraltar giving the information and another one, resident in Gibraltar and on who one could knock on his door and say: "Hold on, your fellow colleague that is based in Bombay has not given the information and you perhaps should". What I think this law is trying to do is that it is the resident director who has the responsibility for giving the information and, if so, then really what you should be saying is that it is the company secretary and such director or the company as shall be resident in Gibraltar which has the requirement to produce this information. Otherwise there could be a little anomaly.

MR SPEAKER:

If there is no other contributor I will ask the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, if I could just respond to some of the points that have been made. On the question of resident directors we have required physical presence, if you like, from the company in some way by the form of licensing that we have been operating under the tax exemption for some considerable time. My advice, Mr Speaker, was that therefore there should be no problem and no disruption in making this particular requirement. As to the point about all accountants registered on the Auditors Register, I can confirm that since the situation that we come back to is that all companies will require to be audited under the provisions of the Companies Ordinance and any auditor that appears on the Auditors Register it will be open to him to carry out that audit. As to the question of certification I am happy to confirm, Mr Speaker, that there is a typographical error in the proposed amendment and it should read: "the company secretary and a director" and I will make that formal amendment in the course of the Committee Stage. The intention of that provision, Mr Speaker, is that, in fact, both a director and the company secretary should be made to make a certification to us. Clearly the requirement is that at least one of them should be resident so that if anything is wrongly certified to us and we find out from subsequent investigation that it is incorrect, then we have got somebody here in Gibraltar who we can actually move against under those circumstances and it was thought to be important that we should have that ability.

HON P C MONTEGRIFFO:

If the Hon Member will give way. Just as a general point, Mr Speaker, and perhaps coming in at this point of residence and although outside the precise scope of the Bill but one common problem which the Government may wish to consider, as I understand it, is the situation where, in fact, for a non-exempt company you have a totality of non-resident directors. Therefore I think a problem does exist if you look at it as a problem although at present it is a loophole, whereby people who have a normal Gibraltar company that has no resident director it will be validly argued, and I understand accepted by the Income Tax authorities, that that company is not resident in Gibraltar so that therefore it is not liable to income tax under the provision of the Income Tax Ordinance. My understanding is that the company will not be deemed resident in Gibraltar if you have no director at all on the Board who is resident here and that this, effectively avoids many of the provisions which would otherwise apply to a normal resident company. I can elaborate further but that is one of the issues I have come across.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think I understand the point that the Hon Member is making but quite frankly, the key thing for us to get to is that we have at least one person in the certification process who we can move against. But what I am quite happy to do is to look at the wording of the Clause and consider whether an amendment at the Committee Stage is appropriate.

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 the adjourned meeting of the House.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the Gibraltar Land Titles Bill, 1990, clause by clause.

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

THE GIBRALTAR LAND TITLES BILL, 1990

HON M A FEETHAM:

Mr Chairman, I have given prior notice of a number of amendments. Most of them are not really of substance. Can I propose therefore that they should be taken as read and go through the Bill?

MR SPEAKER:

Yes.

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

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

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

Clause 4 was agreed to and stood part of the Bill.

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

Clauses 6 to 11 were agreed to and stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Gibraltar Land Titles Bill, 1990, with amendments, has been considered in Committee and agreed to and I now move that it be read a third time and passed.

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

ADJOURNMENT

HON CHIEF MINISTER:

Sir, I have the honour to move that this House do now adjourn to Thursday the 8th November, 1990, at 10.30 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Thursday the 8th November, 1990, at 10.30 am.

The adjournment of the House to Thursday the 8th November, 1990, at 10.30 am was taken at 1.30 pm on Wednesday the 24th October, 1990.

THURSDAY THE 8TH NOVEMBER, 1990

The House resumed at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

The Hon P C Montegriffo

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

SUSPENSION OF STANDING ORDERS

HON J E PILCHER:

Sir, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying on the table of the Accounts of the Gibraltar Shiprepair Limited for the year ended 31st December, 1989.

This was agreed to.

DOCUMENTS LAID

HON J E PILCHER:

Sir, I have the honour to lay on the table the following document:

The Accounts of Gibraltar Shiprepair Limited for the year ended 31<sup>st</sup> December, 1989.

Ordered to lie.

HON M A FEETHAM:

Sir, I have the honour to lay on the table the following document:

The Gibraltar Registrar of Building Societies Annual Report, 1989.

Ordered to lie.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to lay on the table the following document:

Legal Notice 138 of 1990 - Income Tax (Qualifying Companies) (Amendment) Rules 1990.

Ordered to lie.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I beg to move the motion of which I have given notice

"That the Honorary Freedom of the City of Gibraltar be conferred upon HMS Calpe in recognition of their commitment to the defence of Gibraltar and to mark the occasion for the 25<sup>th</sup> Anniversary since the formation of the Unit."

Mr Speaker, the opportunity that the House has in identifying itself with HMG Calpe and in commemorating the 25<sup>th</sup> Anniversary by granting the Unit the Freedom of the City is consistent with the support that this House, and indeed the people of Gibraltar, have given to the Gibraltar Regiment in its own historical development and I think it is right that we should give expression to the satisfaction that there should be Gibraltarians involved in the defence of Gibraltar and indeed forming part of the defence network of Western Europe and of Nato. We are part of the Western European civilisation, culture and history and with the United Kingdom, Gibraltar has been an integral part of that value system and the defence of those values in two world wars. Before that and now we are at the stage in our own development as a community where we are increasingly

conscious of xxxxxxxxxxxxxxxxxxx [text missing] xxxxxxxxxxxxxxxxxxx own right. Of course this comes xxxxxxxx [text missing] xxxxxxxx world, fortunately for all of us other than the recent events in the Gulf, is clearly moving into a situation which should have been the end result of the second world war but which did not happen at that time. It is of course for places like Gibraltar whose entire history is virtually a military one, a difficult thing to adjust to a situation where the military role is less necessary than in the past because the prospects for peaceful co-existence are better than in the past and clearly in the diminished role the part that we play is even more significant, because if we are talking about a major conflict in the world then we could not expect Gibraltar to play any other than a minute part in such a situation. However in peacetime defence capability then Gibraltar's own human resources allied to the use of the defence resources, which are the responsibility of Her Majesty's Government, are clearly something that it is in our interest to encourage and identify ourselves with. It is also something which is in the United Kingdom's interest because, in fact, in their own free distribution of scarce military resources they know that they can count on the people of Gibraltar and on the men and women serving in HMS Calpe to be there when needed, to be professional and up to the standards that the British Forces have a worldwide reputation for having. The unit in fact was formed in July 1965 and it moved in 1983 to the premises that we all know that they occupy at the moment in Queensway. In fact the Unit originally consisted of fortyfive men and women and had two main branches dealing with communications and plotting and helped to give support to the Royal Navy in Gibraltar. Since then the role has been expanded and they have now been able to take in people into a variety of other jobs which I think is something that compliments the civilian role that those volunteers in HMS Calpe have. I think the discipline in HMS Calpe like that in the Gibraltar Regiment and the commitment and the work that they put in is something that reflects upon the other work in the community and in their jobs in civilian life and that in fact both roles help each other. I always remember many many years ago when I was in University that one of the subjects that I concentrated on was the writings of Machiavelli and of course one of the things that Machiavelli is least well known for was his military theories and he always believed that the only way to ultimately defend a small community was by relying on the people of that community to be ready to defend themselves. Because if you rely on professionals, mercenary forces, like in mediaeval Italy, then the professionals could be considered to be less committed to the defence of their particular homeland than those who had been born, bred and raised there. Although the theory is five hundred years old, I think there is no doubt of the sense of pride that we in Gibraltar feel for both HMS Calpe and the Gibraltar Regiment. It is formed by our people and we therefore feel proud of their efforts and identify with them. I therefore know that the whole of Gibraltar will welcome this opportunity to give effective recognition to this sense of identity by granting the freedom

of the City on the 25th Anniversary. I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the motion moved by the Honourable the Chief Minister.

HON A J CANEPA:

Mr Speaker, we are very happy to support this motion and we welcome it wholeheartedly. The 25th Anniversary of the formation of HMS Calpe is a most appropriate occasion for the House to be asked to confer on the Unit this very signal honour. As is well-known, Mr Speaker, Gibraltar has traditionally very very strong links with the Royal Navy and of the three services if we are asked to make a choice as to which is our favourite of the three because of our long tradition and association and because of our links with the fleet for many many decades then perhaps the Navy will be the favourite. The Chief Minister has spoken about our historic links and the military history with which Gibraltar is associated, but perhaps, in fact, this is greater than is generally known. I myself, like many of us, have read widely about the history of Gibraltar and yet it was only a few years ago that I learned from Mr Paco Galliano, who was then Chairman of the Museum Committee, that in fact the direct involvement of Gibraltarians in military matters is perhaps greater than many of us realise. Of course many distinguished Gibraltarians have over the years served in the regular armed forces of Her Majesty of Great Britain, but I am not referring to that, but a matter that is not very generally known and which can only be ascertained by an examination of the archives of the Supreme Court. This is the role that was played by Gibraltarians directly during the Napoleonic wars when armed merchant vessels owned and captained by Gibraltarians with names that are still very much part and parcel of the scene in Gibraltar, harrassed French shipping in the straits and many French vessels were captured as prizes by these armed merchant vessels owned and captained by Gibraltarians. That is why it is in the records of the Supreme Court and these facts can be ascertained because they were captured as prizes. We all remember over the years, at least the older generation does, the role of the Royal Navy and our involvement in the Royal Navy that I referred to earlier and more recently, eight years ago we also saw the naval vessels departing from Gibraltar, in March 1982, on the occasion of the Falklands. So it seems that the links between the Navy and Gibraltar are very much part and parcel of our way of life even with the present generation, and it is not just because we have had a dockyard over the years and because there is a naval base. There is this other added dimension that I have referred to and personally, Mr Speaker, my first sight of my father after the war, as a young five year old as I was then, was in naval uniform. My father was a Chief Petty Officer in the Navy and my first sight left an indelible impression on me and therefore a tremendous affection for everything and anything connected with the

Navy. The local Unit HMS Calpe have during the last 25 years played a much more low key role in matters to do with surveillance, signals, communications and so on than is the case with their brothers in arms, if I may put it that way, in the Gibraltar Regiment. The Gibraltar Regiment are much more in the public eye, but we must not minimise for one moment the importance of the silent service which HMS Calpe has been affording to what can be generally termed the defence of Western Europe particularly during the years of the cold war and this they have been doing for 25 years. So we thoroughly welcome this motion and we are glad to be associated with the remarks of the Chief Minister and we congratulate HMS Calpe, not only on the celebration of their 25th Anniversary, but on the fact that we the representatives of the people of Gibraltar deem them most worthy to receive this very signal and high honour. Mr Speaker, we will wholeheartedly be voting in favour of the motion.

HON P C MONTEGRIFFO:

Mr Speaker, I welcome the motion entirely. I simply want to make a few brief comments. Essentially I think it is important to highlight that the motion brought to the House today although principally one which rightfully applauds HMS Calpe and celebrates its 25th Anniversary is, I think, also an appropriate time nonetheless to also make comments on the major reassessment of the military role which Gibraltar is playing in the new world and which the Chief Minister has alluded to. I think, it is really this context that the celebration, in a sense, should be put into because in the reassessment of the military role that Gibraltar will play in the future two things really have happened. One Gibraltar itself for reasons that are peculiar to the UK and to our own development has as a reassessment of its position and the thawing of the cold war had to readjust as a result of western defences being radically readjusted. In that sense, Mr Speaker, the role of HMS Calpe is almost, I think, a peace keeping role in that I would like to believe that the role of the defence forces which are basically involved in surveillance and the like in Western Europe today and bearing in mind their attitude towards the Soviet Block and the way those relations are developing is essentially a peace keeping type of role. This is as opposed to what it was previously a strict defence in a cold war environment. From Gibraltar's own position, Mr Speaker, I think, that it is also important to highlight that the community as a whole gives HMS Calpe and of course the Gibraltar Regiment a degree of support which I would also like to pay tribute to. It is not only the men and women of these forces but also their employers, general members in the community, wives, children and friends, who also play a very active role in allowing its members to take up duties which are sometimes of a part-time nature and sometimes of a full-time nature. It is the community as a whole which, I think, shows a huge degree of support for what HMS Calpe and the Gibraltar Regiment does and, I think that the prospects of the involvement of the

community for both these units is going to increase. There are certainly as far as the Gibraltar Regiment is concerned, more employment prospects for a lot of our people. One does not know at this stage how HMS Calpe will develop, but there is clearly a lot of room for a continued involvement of our community in these two units. The popularity of both HMS Calpe and the Gibraltar Regiment, I think, also serves to underline the degree to which, as individuals, Gibraltar identifies with the military in an important and significant way. I think, it is important to place on record, Mr Speaker, that it is a signal of our maturity as an ex-colonial community that we can identify with things military, things essentially military in a British way in a method that has been made entirely Gibraltarian. We have evolved in a very evolutionary and transitional way from a purely colonial military presence to one which now involves an important contribution by ourselves, as a people, and that, I think, says a lot for the maturity which we have arrived at as a community. I welcome the motion entirely and commend HMS Calpe on its Anniversary.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, I do not really think I need to add very much to the speeches that have already been made. Clearly the complement of HMS Calpe will have listened to what has been said by Members on the other side and will, in fact, be glad to know that it is a unanimous decision of this House, representing the people of Gibraltar, that are in agreement to the granting of the Freedom of the City to them as a mark of our joining in their celebration and our sharing with them their history and their role in Gibraltar.

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

HON J E PILCHER:

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

This House takes note of the Accounts of Gibraltar Shiprepair Limited for the year ended 31st December, 1989"

In so doing, Mr Speaker, I will divide my contribution into three parts as indeed, I think, I did last year and has been the case since we took office in 1989. One is obviously to review the Accounts in front of us which are for the year ended the 31st December 1989. Secondly, Mr Speaker, will be to review the operation through 1990 which

is to a point a more important element than the first part which is the discussion of what is to a point historical. The third part, Mr Speaker, is to review the short to medium term future, as we see it, of the operation. In doing so, Mr Speaker, I have taken particular note of the debate that we had at the end of last year, I think, in November. I think it is relative at this stage to go over what was said at the time by me, Mr Speaker, because of two factors. One to show Members opposite that what was said at the time was, in fact, what the operation was doing and which is reflected in the Accounts for 1989 and secondly, Mr Speaker, to prove to the House that the statements made in the House during the historical debate of the Accounts for 1988 are, in fact, an accurate description of what is happening in the Yard. Because there were some aspersions cast, which I will deal with later, at the end of that debate by some Members of the Opposition about the accuracy of the statements that I had made at the time. I think, Mr Speaker, that I will start by going back to what was said in the 1988 debate. I said at the time Mr Speaker in relation to the operation of 1989 that there was only one possible solution because the Yard could not be run under the guise of selling the amount of man hours or the turnover in the APA Business Plan and that the Government had decided to do two things, Mr Speaker. One was what was done very early in April/May and which was the establishment of the Joint Venture Companies. Which by that time were working with considerable independence from GSL and the Government. Secondly was that the Company had started looking at the possibility of reducing its workforce as well as reducing its physical capabilities and seeing whether it could create a Business Plan to sell hours which would make the Yard less labour intensive and to go for more specialised work. It also had to determine how many hours and what type of set up would be needed. There were of course two problems for the Company. The first problem was the fact that although the decision was taken in March/April of that year, because of the nature of shiprepairing where there were ships booked one or two months in advance, although the decision to hold the operation was taken in March/April there was no physical proof of that until about June and we, as a company, felt we had to honour. I think, at this stage, Mr Speaker, I would also like to remind the House that at the end of the debate I did mention that my impression was that the Company would have suffered a loss of in the region of £3m for the first six months of the operation. If Honourable Members look at Hansard they will find that at the end of the debate I considered given the losses of 1988 that the first six months of the operation would have caused GSL a financial loss of about £3m. Mr Speaker, I said: "We could not just shut down the Yard and try to restore it again in January of the following year because that would create a situation like the one created by A & P Appledore in October/November 1987. We therefore felt, as a company, that we were to continue the operation although we stopped marketing the company commercially or attracting ships but for the ships already agreed we continued the operation at a higher activity

until mid-June and then at a much lower activity". Again let me remind the House, Mr Speaker, that at the end of the debate I indicated that I felt that the losses for the next six months of 1989, the final part of 1989 would be in the region of £2m. I did also, Mr Speaker, indicate that the substantial amount of hours, which, had been sold by GSL in 1988, in the region of between 700,000 and 750,000 man hours, was unsustainable. During the course of 1989 because of the restructure and because of the fact that we were, as we mentioned, taking on or trying to take on in the last six months more specialised and less labour intensive work, we felt, Mr Speaker, that this had to be shown in the number of man hours and I think I indicated at the time that there would be a substantial reduction of hours sold during 1989. For the information of the House, and I will be touching on this later on, GSL during 1989 sold in the region of 500,000 to 510,000 man hours. A decrease of somewhere in the region of 35% over the previous year and if one looks at the turnover figures for 1989 then I think it is shown quite clearly that although the company sold somewhere in the region of 35% less man hours, the turnover was in fact £1.3m more than the turnover for 1988. This shows, Mr Speaker, what the company had set itself out to do in March/April of 1989. We set out to try and do three things. Firstly, move away from the very labour intensive operations given in the previous A & P business plan; secondly to look at higher specialisation ie work that attracted a higher tariff and thirdly to restructure, all the company's tariff structure and I think, Mr Speaker, the figures that are shown in the 1989 Accounts reflect the start of the success of that policy. I think there are other elements during last year's debate, Mr Speaker, where I pointed to the fact that over the second six months of 1989 the company had declared the state of voluntary redundancy that was relative successful and it can be seen, Mr Speaker, in the Accounts that there is an amount of money which was surplus and which has been paid to those taking redundancies. Other workers have been re-deployed and, I think, I ended the debate of last year by, in fact, saying that by the end of December I felt that the restructure of both manpower and physical layout of the Yard had been finalised and that we were on the threshold of the final restructure of GSL. Obviously during the first six months of 1990 there would need to be a monitoring of the situation, but I however felt relatively confident that everything possible had been done during the last six months of 1989 to prepare the ground, Mr Speaker, for the final restructure, for the final test, if you like of GSL. Mr Speaker, if you turn to the Accounts proper for the 31st December 1989, and they are not as complicated, if you like in that they do not have things like last year with respect to the write-down of assets and with the loans to and from the Joint Venture Companies. Obviously this was all cleared in the 1988 Accounts and I produced a piece of paper last year and I remember reading through the Accounts and, I think, that it was the Honourable the Leader of the Opposition who referred to me as a magician pulling a piece of paper

out of the hat. Obviously that is not the case this year because I am sure that the Honourable Member does not need this piece of paper. I have however asked the Clerk to circulate it because obviously given the trend that we established last year, the Leader of the Opposition must have done this himself this year before the paper had been circulated and I think what that shows, Mr Speaker, is an improved position in GSL. If I can just get the members opposite to cast their minds back, I have produced the whole exercise again, so that it is clear in the minds of the Members opposite exactly what we did last year and to see that there is no departure from the same equation this year. During the years of 1985/87, Mr Speaker, the turnover of the Yard, taking out of the equation, the RFA guaranteed work and the profit on that work and deducting the capitalised works, the turnover was £15,841,000 over the three year period and the losses were £19,479,000, we therefore established, Mr Speaker, that for every £1 of work that GSL did during those three years it cost GSL £2.23. That means that for every £1 the company sold it lost a further £1.23. We explained that during 1988 the turnover figure was £9,265,000 and the losses were £7,904,000 and that virtually, in simple arithmetic, meant that for every £1 that the Yard sold it was costing the Yard £1.85 a loss of 85p for every £1 of work done. I have repeated the exercise for 1989 Mr Speaker and as can be seen it is a very simple exercise. A division of the turnover on the losses and what the figures show, Mr Speaker, is that the turnover has been £10,526,000 and the loss for GSL during 1989 was £4,653,000, very much in line, Mr Speaker, with what I told the House last year that I thought would be the loss for 1989. I think that in November I said that it was in the region of £5m. What that shows, Mr Speaker, is a further improvement in the position of GSL. In 1989 taking the average, because I have already mentioned to members opposite, the difference between the first six months and the second six months, the average was that for every £1 that the Yard sold, it was costing the Yard £1.43 ie it was losing 43p for every £1. Of course it is as I have indicated an exercise of the average throughout the year. In doing so I have to point out to the fact that because the first six months of the operation we were incapable of doing anything to change the trend for matters that I have discussed, the trend therefore for the next six months of the operation, if one is able to output which one cannot do the first six months, the trend in the value of every £1 sold for the second six months must have been an improved situation to the first six months. Mr Speaker as I have said in previous years although I have mentioned that the Accounts are relatively simple this year, they have got nothing of context which is complicated and it is all explained in the statement accompanying the Accounts. I would nevertheless like to say to Members that if they are not satisfied with anything or are unclear about any of the elements of the Accounts that they should feel free to refer to it in their contributions and I will then endeavour to answer these points when I wrap up the debate. I think, Mr Speaker,



that I should refer members to the Chairman's Report which as, I think, I have said in the past is only a very simple Report. I feel that there is no need to have a complicated Chairman's Report because since 1988 the political responsibility for the Yard has fallen on the Minister who is, in fact the Chairman and therefore anything that is required to be said will be said by me in this House. There is therefore no change between the Report in October 1990 to what I said to the House in November of 1989. It says that the operation of Gibrepair for the year 1989 could be distinctly divided into three main facets. During the first quarter of the year I am taking into account the performance of the previous six months and it was evident that the level of turnover as foreseen in the business plan was unsustainable. Let me say at this juncture, Mr Speaker, that the word turnover there is not properly defined, or at least in terminology is wrong, the word turnover there should in fact read "the number of man hours that the business was selling" and not the turnover because obviously if GSL were able to sell ten hours at £10m then it is not the turnover that is affecting the operation it is the number of man hours and I have already explained that we moved from 750,000 man hours in 1988 to about 500,000 man hours in 1989, so the level of turnover should read "the level of man hours as foreseen in the Business Plan was unsustainable." The Board decided that the new strategy would have to be followed if the Yard was to have any chance of success. In April and May of 1989, the management devised a restructure of the company which provided for a major streamlining of the operation, in physical size, manpower and overheads, the plan was devised using the experience of the first year of the operation under the new management. It was agreed to give GSL a further twelve months to try out its own Business Plan. I think, Mr Speaker, one has to highlight here the words "the Plan was devised using the experience of the first year of the operation under the new management." The new business plan was not devised by the Torsten Andersons of this world or devised by the professionals in A & P Appledore, it was devised by the management of GSL which at that time was all local with the exception of the General Manager, Mr Cris Potter, who let me add is a quasi-local because, I think, he is as much part of GSL and part of the local flavour of GSL as anybody else. I must underline the fact that the operation under the new management is important and it was the experience taken over the previous six months, the previous nine months, which generated this new Business Plan and obviously the Government agreed, as the shareholders for the people of Gibraltar which we represent, agreed to give the Yard a further six months to try out this final phase. During the third quarter of the year, the Company started putting the plans into operation and started with reducing the turnover. Again let me say that in turnover it is the man hours and physically restructuring the Yard and this was a difficult exercise which had to be balanced in order not to produce difficulties in marketing which could have created a total slump in sales. I am not repeating what I said before because this is what I am saying in October 1990 and what I read before was what I said in

November 1989. I have to commend the management for the smooth transition resulting in being able to re-enter the market in January 1990 without any major problems. During the last quarter of 1989, the management of the company was trimmed down and overhead administration expenses were cut substantially to controllable levels with particular emphasis on a restructured smaller operation. During the last six months of 1989, the operation levels achieved reflected with the adequate controls of over-expenditure to a trimmed down workforce and the introduction of an enhanced price-structure and the company losses had started to decrease. I think I indicated, Mr Speaker, a few moments ago that when one looks at every £1 sold and it was costing the company £1.43, as I mentioned, the last six months had a major effect on that average for the year and therefore it is a logical conclusion to assume that the work we were doing over the last four months had a drastic effect in the overall losses for the year. I think it is important again to stress the fact that we had introduced earlier on in the year an enhanced price-structure which, in fact, is proved by the fact that we have sold less man hours but have produced a higher turnover figure of £10.4m for the year. The financial result for the year has to be seen in relation to previous years' performance and also reflects largely the effect of overloading of the company's capabilities for the first six months, followed by a transitional quiet trading period during the period of restructure. At the end of 1989, the Company was ready to start its exercise under the new restructure. Mr Speaker that leads me quite well into the discussion of the second phase which is the operation during 1990 but before I do that I would like to point to two factors in the 1989 Accounts, Mr Speaker, which I am sure the members opposite have already picked up and I think, I should explain prior to the matter being raised by them. Obviously the only possible way that GSL could finance the losses, because it was absolutely clear not only given the policy of the GSLP that after the £3m that we gave the company for restructure in 1988, the Gibraltar Government would not put a single further penny of taxpayers' money directly into the operation and given, as I say, as the Honourable Chief Minister has reminded me that even if the Government had wanted Community Law would have prohibited us from doing so, was to increase the bank overdraft figure and increase the outstanding arrears on PAYE and Social Insurance. Had the Company paid all its PAYE and Social Insurance and had it not had a bank overdraft then obviously at the end of the day the Company would not have been able to continue trading. As I have mentioned, Mr Speaker, any questions on the Accounts will be tackled by me at the end of the debate or if the Honourable members wish they can give way during the course of their contributions. Mr Speaker, I would like to go into the second part of my contribution which is what has been happening to GSL during 1990. I think, Mr Speaker, that in so doing I am going to disappoint members opposite. I say disappoint members opposite, Mr Speaker, because as, I think, the Honourable the Chief Minister mentioned last year, that

it seemed to us from the contributions of the members opposite, that the Official Opposition, in fact, did not say anything other than that we were no better than they were and probably worse. Which meant really that they are so concerned about GSL, its losses and its future that all they can think of is to use it as a stick with which to hit the GSLP. They are looking simply to what is going to be their vote catching formula for 1992. That, Mr Speaker, is what the Honourable the Chief Minister said, was our perception of last year's contribution by Honourable Members opposite with the exception of Mr Montegriffo who took a totally different line. I am sorry as I said at the beginning, Mr Speaker, to disappoint the members opposite because GSL is no longer a stick with which the AACR can hit us with. Let me also disappoint particularly the Honourable the Leader of the Opposition about what he predicted last year, Mr Speaker. I quote "eventually the Accounts for 1989 will be produced in November or December of next year". That part of the prediction the Hon Member got right. He also said, Mr Speaker, "that we would be debating the same scenario in twelve months time". He further predicted "there was a problem to be looked at, the state of Gibraltair, this is still going to be the problem in June 1990. They are going to do exactly the same thing, going to look at the problem again and we are going to have a repetition of the scenario of the events that we have seen in the last year or so". Mr Speaker I am sorry to disappoint the Honourable the Leader of the Opposition for a third time because what I am going to explain to the House about the operation in 1990 is no where near what he predicted or what the Opposition would like to feel is the situation in GSL today. Let me do something else before I explain the position of GSL. I am going to read what we said in our manifesto in 1988, although I know that in the case of the Honourable Lt Col Britto it is not necessary because he carries the GSLP manifesto with him in his pocket. However it appears that he does not read it very well because he reads what he wants. "In 1984, the AACR suggested that the strength of the so-called pillars of the economy shiprepair and tourism were sufficient to enable the economy to grow and perhaps cross the threshold of economic self sufficiency that the AACR had been promising the people of Gibraltar since the mid 1960's". Obviously by 1987, having lost £32.5m they knew that that was not the case, but this was the case in 1984, Mr Speaker. "GSL received £28m from the UK which the AACR described as generous but the expenditure targets were exceeded and the total bill came to about £35m. If the AACR had listened to us in 1984 on our view that the £28m was not an effective way of achieving the target of 1,200 jobs and had accepted the alternative strategy of using £15m in a GSL that employed 400 people to 500 people and using the remaining £13m to stimulate other areas of the economy to create additional jobs we would not have wasted £28m nor be now spending your money through taxation in a loss making operation or in trying to reduce in size what the AACR spent money initially in expanding. We will put into effect plans to halt the decline of GSL by a restructuring based on our original idea of diversification adapted to circumstances

of today. The restructuring plan would have an immediate impact on the loss making situation. The AACR now also claim to have plans to restructure the yard". I will leave the quoting there because the rest deals only with the EEC. We said in our manifesto that we would put into effect plans to halt the decline of GSL by a restructuring based on our original idea of diversification. We did that immediately and the fruits of that restructuring were felt during the first few months of 1990 and, Mr Speaker, if two years after the 25th March 1988, the effects of the restructure can be felt we can prove that we have kept another of our electoral commitments. Irrespective of what the Honourable Col Britto was to say, this, I think, was the last commitment in our Electoral Manifesto which we had not complied with, Mr Speaker, and I can announce to the House today that by April of 1990 GSL was economically viable. The losses that GSL was sustaining were in fact less than the direct contribution to the economy of Gibraltar that GSL was making ie if you take into account what GSL pays in PAYE, in Social Insurance, in Electricity, in Rates, in Telephones, then the contribution of GSL, Mr Speaker, to the economy is greater than the losses it will sustain during 1990. This was evident in March and April of 1990 and has been evident ever since. The fact that the motion has not been brought to the House until today, Mr Speaker, was related to the fact that the 1989 Accounts, as I explained, have taken very long to produce. In fact the Honourable Members opposite know that three weeks ago I gave them a draft copy of the Accounts. However the Management Accounts for 1990, Mr Speaker, show quite clearly that as from March/April of 1990 the Yard has gone through the economic viability target and is today producing for the people of Gibraltar more than it is losing. I think, Mr Speaker, one of the matters that I highlighted in my previous comments on the PAYE and on the Social Insurance Contributions is that we still have an historical problem with PAYE and with Social Insurance. The Yard in 1990 has been producing enough money, Mr Speaker, to be able to cover all its expenses, so during 1990 the Yard has had enough money to pay current PAYE, Social Insurance, telephones, water and all current expenses in relation to the Government. It has a historical problem obviously, Mr Speaker, but it is now in a much better position to be able to look at these historical problems and to be able to resolve the matter commercially in looking at its historical debts. Let me advise the Members opposite that in the first quarter of 1990 GSL paid all its outstanding Social Insurance contributions for the period ending 31st December 1989 which is, Mr Speaker, part of what the Honourable Members have in the figures of, I think, 2.2 in the 1989 Accounts. During the course of 1990, we have been looking at the historical position and we have been making certain inroads into clearing this matter up. During 1990 most of the historical creditors, Mr Speaker, were dealt with and Members will find that today from a trading point of view GSL has a normal trading position. It does not have creditors screaming down its neck, because of non-payment. All trade creditors, all the historical trade creditors, have been paid and today the trade creditors

position is a normal one for any company. Some are for thirty days, some for sixty days, some for ninety days, ie a normal trading position. Obviously the same is not the case with the historical debts of the Government which I have already indicated that we are now meeting with the different Government Departments in order to see how in a commercial situation we can meet these historical debts. Let me say, Mr Speaker, that that is the historical position and if we are able to take these debts out of that equation, which obviously one cannot do, as one can see from the Accounts that the accumulated losses for the last four years are now somewhere in the region of £26m. If we could have brought the operation to zero in the 1st January 1990, Mr Speaker, the money being generated by the Company is enough for it to trade normally and it is enough to pay its way like any normal company should. I will not at this stage try to put a figure, although I well could, because we have had problems in the past with Management Accounts. I will however say quite categorically that the Company has gone through the economic viability stage and that the losses for next year will be substantially less than this year. But, I think, that at this stage Mr Speaker, I prefer not to put a figure other than to say that they will be substantially less and will be able to prove that the direct contribution ie PAYE, rates, rents will, in fact, be greater than the losses that GSL sustains in the period 1st January 1990 to 31st December 1990. Mr Speaker, I would also like to highlight the work done by the Management and the workforce of the Company because as I mentioned last year's debate, in November, that praise should be given to the Management and the workforce of GSL for their resilience in being able to shift between June and what was October/November into a new situation with less manpower, a smaller yard and greater flexibility by the workforce in particular. Without that resilience, Mr Speaker, I would not be able to be here today saying that we have attained the targets that we set ourselves in the 1988 Manifesto. My thanks goes to each and every individual Member of the Board and Management team and each individual member of the workforce. I must also say that without the support of the Union Movement in helping us to do what we both felt, and by both I mean ourselves and the Union, was the only possible way forward the restructure, redundancy and a re-deployment situation would not have been possible, Mr Speaker. Let me give Honourable Members some indication of the kind of cut-back that there has been so that Members can see, Mr Speaker, the relationship between manhours sold and turnover in order to be able to gauge the major improvements that there has been at GSL during 1990. My calculations are, Mr Speaker, that during the course of 1990, the Company will have sold by the end of the year somewhere in the region of 200,000 manhours and the turnover figures for 1990 will be in the region of £7m. So if one takes into account that the number of the workforce today in GSL is in the region of 175 then the output per worker, or the productivity levels, and if Honourable Members opposite remember A & P always said that the Gibraltarians and the workforce in Gibraltar could

never attain, have been attained with flying colours, Mr Speaker. That gives an idea of the success of the three elements that I mentioned in the Chairman's Report in 1989 "a trimmed down workforce, the introduction of an enhanced price structure and obviously the marketing that the Company had to do from the 1st January, Mr Speaker. I think, Mr Speaker, that this leads to what is the short to medium term future of the Company. It is no secret, Mr Speaker, that Government supports, in principle, a takeover of the company. Although we agree, in principle, that we would support a takeover we have not, at this stage, decided and what is taking place are not negotiations to decide how that takeover would be achieved other than, of course, that it is not a question of somebody buying GSL, the Company. Members must realise that GSL is a statutory instrument created by the GSL Ordinance and that it is not our intention to sell it. However in principle, we support the takeover, as I have just explained, of the Yard and, I think, I need to explain to Hon Members opposite and the people of Gibraltar the reasons why the GSLP feel that this has to be the case even whilst highlighting the fact that we have attained the targets that we have set ourselves in our Manifesto. There are four elements within that equation, Mr Speaker, which are important to highlight and which have already been highlighted to the Unions and the workforce in discussions with them. The four elements are: Firstly that the Yard needs major capital investment today, it is an unfortunate situation and it is just another historical noose round our necks because, Mr Speaker, unfortunately, what ended up being £32.5m investment in the Yard, we find that today, Mr Speaker, virtually five years after the start of GSL, GSL requires major capital investment in equipment. I am talking somewhere in the region of £2m to £3m in equipment. It also requires, Mr Speaker, a major capital investment in infrastructure, in buildings and in new workshops. Obviously, Mr Speaker, in order to compete in what is a very competitive market the buildings and the equipment which were handed down by the MOD to the Gibraltar Government are not, the type of buildings that produce the efficiency and the needs for GSL to increase its productivity. Let me give Hon Members an example. The main workshop is as far away as it can from the No.1 Dock and this produces a lot of problems of toing and froing, leading to a lot of idle time. Which as the Accounts of GSL show is not possible for GSL to charge to a ship. Obviously, Mr Speaker, the Yard requires an investment of between £2m or £3m for equipment as well as investment in the region of £3m to £5m for buildings. Let us say a total investment of between £6m to £8m. It is not possible, Mr Speaker, for the Government to provide that kind of investment because of three factors. One being that when we took over on the 25th March 1988, there were many many things wrong in Gibraltar and these things we have been putting right but this requires money, money for housing, for health, for education and it is not possible for the Government after the history of the £28m plus another £7m of taxpayers money to now give £6m to £8m for capital investment in the Yard. It is not possible for the people of Gibraltar to get a return for that investment and the

Government has other priorities. Even if we were able to attain commercial viability and we were able to break even, it is not possible, Mr Speaker, today to be able to create profits to pay back not only that £6m to £8m investment but also pay the people of Gibraltar back the £7m that was squandered between the years of 1985/1987. We therefore feel that capital investment should come from outside and should come from an entity like Kvaerner which is a very big multi-national which has the money to be able to invest in this operation. When I say Kvaerner it could be any other firm. However Kvaerner at the moment is the one that is discussing with the Unions the possibility of a Labour Agreement. The second element of that equation is the workload, Mr Speaker. It is not possible given the marketing strategy and given the market as it is today, and despite the consistency of work during 1990, to keep up a major consistency of workload. An entity like Kvaerner could give the Yard two things, one is the possibility of further workload because they happen to be shipowners in their own right and also by enhancing the operation might be able to produce a bigger turnover for the Yard. The third element, Mr Speaker, is idle time. Obviously as I have mentioned before in the periods of slack activity the Yard although it does a lot of maintenance has certain levels of idle time and again an entity of the magnitude of Kvaerner, could within its own parameters and within its own network produce some kind of manufacturing or some kind of industry during this idle time. It is obvious that it is not possible for the Gibraltar Government to be able to support the Yard in the way I have just mentioned. And although I have said publicly that I am very proud to be here today saying that the GSLP have in fact attained what it set itself out to do, it is still economic viability, Mr Speaker, and does not mean profits. Economic viability means that the drain which the GSL was to the economy for five years that drain ceased from the 1st of January 1990. However let us not kid ourselves, Mr Speaker, that having attained our targets and having stopped the drain does not mean that GSL is producing profits. GSL has not produced profits this year but as I say the loss will be less than the direct contribution ie if we shut the Yard tomorrow the loss to Gibraltar will be greater than keeping the Yard open. There is however no way that given the present set-up and even if we attained commercial viability that we are going to make any major inroads in clearing what is, Mr Speaker, an accumulated loss of somewhere in the region of £26m. The Government would like to be able to arrive at some position where the operator of the Yard was paying for that Yard and therefore was able to pay back the people of Gibraltar the money that it has lost during the last five years in order for the Government to be able to use that money for other priorities. The benefit would be that we would be ensuring and protecting the future of GSL employees and at the same time having stopped the outflow of money be able to start getting money for that operation. So it would be a reversal of the past situation with GSL paying or indeed the Yard paying GSL which would in turn be paying back the people of Gibraltar

the money which is rightfully theirs, Mr Speaker. The only other element, Mr Speaker, which I have not dealt with is the series of questions which I think the Honourable the Leader of the Opposition posed during Question Time and which I said I would endeavour to answer if it were possible. Unfortunately, Mr Speaker, it is not possible for me to answer these questions because, as the Honourable Member might himself be aware, we have been saying publicly now for the last six to nine months that the situation vis-a-vis Kvaerner or any other interested party, at the moment it is Kvaerner, is that we have an agreement 'in principle' about the way forward that the Government would like to see. The second phase of the agreement is a Labour Agreement between Kvaerner and the labour movement in Gibraltar. To date there has not yet been a final agreement with the labour movement and I am not in a position to say nor do I feel it is my role to say in the House something that falls to Kvaerner and the Union whenever they are satisfied that their discussions or negotiations merit so. It is not Government's intention to bully the labour movement or to bully the employees of GSL who have spent five years of their lives from one restructure to another and from one problem to another. We would like to see a Labour Agreement between the TGWU, which is the main Union representing the Yard, and Kvaerner because that would then leave the door open for negotiations between ourselves and Kvaerner and because we have already got the basis of an 'in-principle' agreement it would not take us too long. But the questions posed to me by the Honourable Member opposite are not questions that I can answer until the matter is discussed or negotiated and we are not going to do that, Mr Speaker, until we know whether phase 11 has been successful. The Leader of the Opposition's questions were "How many industrial workers are they likely to bring? What is the position vis-a-vis the people that are left? What is the position of Gun Wharf?" The position of Gun Wharf I can answer. Gun Wharf is not an integral part of GSL. It was the first Joint Venture created. I think that it was created, if I am not mistaken, in August of 1988 and does not form an integral part of GSL. During the course of 1988/89 and as I advised the House at the debate last year it is no longer an entity within the GSL framework. GSL is a totally separate entity. So the discussions with Kvaerner and the labour movement and the discussions, in principle, with the Government are centred in GSL, Mr Speaker, and not on Gun Wharf or any other Joint Venture. That does not mean that there might not be some people from some of the Joint Ventures that Kvaerner or any other operator might want to take. They however centre on GSL and not on any of the Joint Venture companies, Mr Speaker. The Hon Leader of the Opposition also asked about the Provident Fund. This is something that would not be able to be decided until such time as the matter was proceeded or until the third phase which is a negotiation period started. I do wish to stress, Mr Speaker, the position which is that, I think, it was in one of the answers to one of the question during Question Time about any employees of GSL who were retained by GSL would continue to have

a guarantee of employment. We are not as I say bullying the workforce, Mr Speaker. I will stop at this stage to hear the comments that the Honourable Members have to make and hopefully to answer their questions. What I would like to say, Mr Speaker, as my closing opening statement is that I hope that the Honourable Members opposite have by now realised that neither the workforce, the Management, the Board, the Chairman, the GSLP, have a psychosis of failure which is what we were told by them last year. I think we have proved during 1990 that the workforce, the Management, the Board, the Chairman and the GSLP have a psychosis of success, Mr Speaker. In two years we have been able to arrive at economic viability for the Yard. There is still a long way to go but what we set ourselves to do in 1988 we have done, Mr Speaker. My last comment is, for the record, Mr Speaker is that I hope that Hon Members have the political honesty when they make their contributions in this debate to cancel what they said last year, particularly the Leader of the Opposition, Mr Canepa, who said last year: "points to, without doubt, failure, it points to incompetence on the part of the Chairman". I hope Mr Speaker, that the Honourable Member opposite is politically honest enough to cancel this statement which he made last year in his contribution this year. Thank you very much, Mr Speaker.

Mr Speaker proposed the question in the terms of the motion moved by the Honourable the Minister for GSL and Tourism.

HON LT-COL E M BRITTO:

Mr Speaker, I will in my contribution deal almost exclusively with the numerical aspects of the Accounts for GSL and leave the more political angle to be dealt with by colleagues on this side of the House. I would first of all like to say, Mr Speaker, that the comments by the Honourable Mr Pilcher that the Yard is now economically viable and, of course, welcomed by us inasmuch as the workforce mainly and obviously the management will be much more relieved to be in the sort of situation that he is projecting. I would however like to reserve any further comments until we see the Accounts for 1990 because with respect to the Honourable Mr Pilcher, in the 1989 Accounts that we are dealing with at the moment I do detect a certain element of what Accountants call "window dressing" and because of this, I would like to see the full figures for 1990 before passing final judgement on what he has told us today. Nevertheless I will go on to say that the subject of economic viability needs to be put into perspective of the total losses suffered by the Yard since its inception. For the record I must say that during its initial stages in 1984, the losses were £1.94m, in 1985 the loss was £3.72m and in 1986 it was £3.31m and finally in 1987 the losses amounted to £4.16m. We know that since 1988 there was a changeover but the losses for 1988 were £7.9m and the losses in 1989, the last Accounts we have before us, the losses are £4.65m. For the three months of 1988 before the GSLP took over the running of the Yard, the total losses in the four years

which the AACR was running the Yard, the losses amount to £15.1m an averages of £3.55m per annum. In the one and three quarter years which the GSLP has been running the Yard the losses amount to £10.6m, in other words £6.1m per annum. All I would say, Mr Speaker, is if the Yard is now economically viable with losses of £4.65m and this loss is higher than at any given point in any given year before the GSLP took over, then viability in the terms that are being measured at the moment could not have been very far away in those previous years. But, of course, it is before my time and I am unable to calculate more exactly without having more information. Let us now go on to the Balance Sheet, Mr Speaker, and allowing again for the projected 1990 figures being better, the situation, the snapshot situation, as at the end of 1989 hardly make very encouraging reading. To start with we have something which obviously sticks out from the Balance Sheet, quite apart from the Principal Auditor's comments in the Report where he says "it is pertinent to point out that the accumulated profit and loss account deficit has now exceeded the share capital by more than £1.5m with the obvious ramifications associated with such a situation". The other obvious factor from the Balance Sheet is the fact that the liabilities are in excess of the assets. In other words that at that point in time the company was insolvent. If we look at the debtors, in other words, the people who owe GSL money we find that they are high at 30% of the turnover and they are up at £3m. If we look at page 14 and note 13 on the Accounts, we find that of this figure of £3.024m of debtors, £2.9m is made up of trade debtors, which is a substantially large amount. The other items that stick out is that the amounts due by related companies of £15,000 and of other debtors of £97,000, and perhaps the Honourable Mr Pilcher would like to throw some light on those figures when he exercises his right of reply, in other words, why amounts due by related companies? And why is there such a large amount due in other debtors and who are these other debtors? On trade creditors, again allowing for the fact that the situation is claimed to have improved considerably in 1990, trade creditors in other words, the people GSL owes money to, have virtually doubled from the previous year to £2.755m. On sundry creditors the figures appear the same or almost the same and obviously as the Honourable member opposite has already pointed out the amounts due in PAYE and Social Insurance have virtually doubled. Finally, the Bank Overdraft is considerably higher, virtually doubled again. So in summary the Balance Sheet shows a very dismal picture and we see that the people who owe GSL money have virtually doubled. The money that the Company owes to suppliers has doubled. Our debts in Social Insurance and PAYE have doubled. The Bank Overdraft has doubled and, of course, the worst possible thing from the Balance Sheet is that the Company is insolvent. Coming on to the Profit and Loss Account on page 6, Mr Speaker, I would like to clarify what I said about window dressing inasmuch as we find that it is not possible to make a true and complete evaluation of GSL without having sight at least of the consolidated Accounts of the related Companies. This is something that if my



memory does not fail me we were promised in this House way back either in answer to Questions or in the first debate on the Accounts. That consolidated Accounts would be presented for Companies related to GSL. Not only has this not been done, but in fact, last year on page 17 of last year's Accounts we were given the shareholdings of GSL in the related Companies and this year we have not been given even that. We are not told what Companies GSL has shares in and, Mr Speaker, it is all too easy to pass losses over to related Companies and then to dispose of those Companies carrying the losses at the initial investment value and without having comparable Accounts for other companies it is not possible to evaluate whether this has been done and whether in this manner the losses have been hidden away. I would refer you to page 14 to illustrate the point that I am making, Mr Speaker, where under note 11, there is a very short sentence that says "certain investments in related companies were disposed of during the year". A bland statement like that needs further explanation and I call on the Honourable Mr Pilcher when he exercises his right to reply to provide details of what those investments were and the value of the investments disposed of. As a further illustration of this if we look at page 14 of the Accounts and in particular to the note I referred to, note 11, we find that in the previous year in 1988, GSL had losses of £23,000 in the Joint Venture Companies, but in the following year in 1989, it invested a further £72,000 into Joint Venture Companies and out of the £72,000 it invested, bringing its investment up to £95,000, this year it has lost another £55,000. These figures needs explaining, Mr Speaker. Why continue to invest in loss making situations? In fact if we look at last year's Accounts we find that the Principal Auditor in one of his final comments in the Accounts said "it is intended to sell the shares held in most of the companies shown in these Accounts". This was the Accounts for 1988 Mr Speaker. There is no clear indication in the Accounts we are discussing at present, Mr Speaker, whether any or how many of these shares have been sold. If we carry on with the Profit and Loss Account, Mr Speaker, on page 6, we notice that there has been a small increase in turnover of about 10% and that the labour force has been decreased considerably from 425 to 162. This is shown on page 12 and there has been a further decrease in Wages and Salaries from £8.4m to £4.9m, page 12 refers. But the overheads are virtually unchanged at £11.381m and the reason for this, Mr Speaker, is because although we are paying less in labour costs in GSL, in fact, our sub-contracting and the cost of sub-contracting work has gone up from £1.4m to £2.9m. So perhaps again the Honourable Member will explain Mr Speaker, the advantage of sub-contracting? It is costing more and bringing the situation back to what it was before. In the notes to the Accounts, Mr Speaker, starting on page 10 and specifically on note 3 on page 11, we see that the Company has had an income from leasing its assets of £187,000 in the year under discussion as opposed to £48,000 in the previous year. A substantial increase and one would have thought something that they

would have wanted to carry on doing. But on the other hand, Mr Speaker, in note 1(J) on page 10, we find that under the Accounting policies we have been told that the fixed assets leased throughout the year were sold to the respective companies on the 31st December 1989. So again, Mr Speaker, perhaps the Honourable Mr Pilcher will explain the reasoning behind the selling of those assets which were obviously providing such an increase in income. Another point that perhaps might also be clarified is why management charges have dropped down to £70,000 from £150,000? There this is again Note 3 on page 11, Mr Speaker, and perhaps we could be given some indication as to why the management charges have dropped so considerably. I will not comment on the doubling of the PAYE and Social Insurance in view of what the Honourable Minister has already told us except to say that in a way despite the comments from the Chief Minister, this is an indirect subsidy to GSL and secondly to ask the Government whether they have decided what they will do with these public debts if the Yard is leased or taken over or given over to an outside operator like Kvaerner? Is it the Government's intention to write-off those PAYE debts? And finally, Mr Speaker, on the Administration Expenses on the Profit and Loss account, we see on the face of it a drop from £4.7m to £3.7m, but perhaps one or two relevant points in those Administration Expenses could be clarified for us by the Minister. Firstly the Administrative Charges have risen dramatically from £20,000 approximately to £256,000. Secondly Security Fees have rocketed from £26,000 almost £27,000 to £152,000. Why is it that in a diminished operation of fewer workers and less work did Security Fees to go up so drastically? We have had service agreement fees of £136,000 which were non-existent last year. Again perhaps the Minister can explain that. Vehicle running costs have gone up 50% virtually from £22,000 to almost £36,000, and again in an operation that has come down so drastically presumably fewer vehicles running how can this increase be justified? Debt of £86,000 have been written off, Mr Speaker, as opposed to £25,000 in the previous year which seems a relatively large amount and finally we have made losses on Disposal of Assets of something like £80,000 and losses in excess of £32,000. All of these, Mr Speaker, we would appreciate an explanation. That is all, Mr Speaker, thank you very much.

HON P C MONTEGRIFFO:

Mr Speaker, the Minister in his own contribution made allusion to certain predictions that had been made from this side of the House and whilst not wanting to enter into that which should be replied to presumably by other members on this side of the House, there was also another, if not prediction, then suggestion or point that was, in fact, made by myself and which is what I would like to focus on principally in this debate when I asked the Chief Minister to clarify whether it was part of the Government's plans to dispose of the Yard? That may not have been completely accurate, but certainly to bring in an operator



to either run the shiprepair facilities or in some way to takeover the operation. The Chief Minister's reply, which I entirely accept as at the time accurate, was that it was not the Government's intention, at that stage, and that there were no plans for such a thing to take place. You will recall, Mr Speaker, and if not I will certainly remind the House that I made that comment in the context of the revaluation of assets which was, I think, one of the principle features of last year's Accounts and the comment was that it seemed as though the revaluation made it cheaper for any operator to take over the Yard or to acquire the facilities of the Yard. Therefore it seemed to be an indication that that might be where the Government's thinking lay. I want to say at the outset, Mr Speaker, so that there is absolutely no confusion about this, that as far as the GSD is concerned we accept entirely, in principle, and subject to details about the concept of Kvaerner or any other reputable and major operator taking over the shiprepair facilities. Before the Minister gave his explanation of the reasons we were convinced in our own mind that the only way a shiprepair facility can be run is with an injection of capital and with, I think, the support of an international organisation. Because despite all the efforts of the present management of GSL and the workforce at present the shiprepair and the GSL operation is not viable. As I said publicly, Mr Speaker, we entirely support that concept and that would be where our own thinking would lie and I commend the Minister for suggesting to the workforce and the company that an agreement should be struck. I would add my small weight to that concept because, I think, that that is in the interests of the company. The only thing which, I think, it is fair to say in all honesty, and the Minister has asked for political honesty, is that he has painted a picture that purports to show that the progress in the Yard between March 1988 to now is part of a web, a plan, which has been a consistent strategy and, I think, there was a recognition, an honest recognition, in last year's debate of what, I think, should be also made today, that there has, in fact, been fundamental shifts and fundamental changes of direction and the fundamental change of direction which we saw last year was, if I recall, the fact that the GSLP Government was prepared to allow the A & P Business Plan a year, despite the fact that they had been saying for years before that, Mr Speaker, in fact, that sort of plan was not viable. I think the shift we have seen today or the shift that we have been seeing in the last few weeks is a much more fundamental shift, not of operational methodology or marketing strategy, but a fairly fundamental shift, which as I say we entirely endorse, of philosophy and I would ask the Minister to confirm in due course whether he accepts the fundamental shift in philosophy because really what the Government is now saying is that notwithstanding their initial preference that the Yard could be run entirely with a locally based network of expertise and connections internationally, notwithstanding that, we have a problem, no doubt the Government will say a somewhat historical,

as opposed to anything xxxxxxxxxxxxxx [text missing] xxxxxxxxxxxxxx Mr Speaker, by the involvement of somebody like Kvaerner or some other entity. I think it does represent, Mr Speaker, a fundamental reassessment, if not a fundamental U-turn, of what is in the Yard's best interest and to that extent we think that that is a proper way to proceed. The problems that arise in debating, at this stage, a possible deal with Kvaerner or otherwise are problems that until the workers are happy, the Government is not going to be prepared to negotiate terms or to come to this House with details of what it proposes to do. However precisely because the Government's main thinking now appears to be primarily geared towards the need for an outside operator having an involvement, I think, the arguments this House has heard over many many months that there should be greater disclosure of what the activities of the Joint Venture Companies are as far as their accounts are concerned. It has greater force at this stage as to what the future of those Joint Venture Companies is going to be in the context of any possible sale of GSL. Also what the future of GSL itself would be, Mr Speaker, because if my understanding is correct the following the Question Session that we had three weeks ago and it is to be confirmed by the Minister now how it proposes to proceed with the sale of the shiprepair facilities and not of GSL? I think it is in the Report, the Principal Auditor's Report, where it actually talks about GSL selling its ship-repairing facilities. Now that seems to imply that GSL is already undertaking other things apart from ship repairing or that the Government has ideas for GSL different to what it is now doing and which, I think, if we are here discussing the GSL Accounts and the future of GSL, the Government can legitimately be asked to explain what non-ship repairing activities of GSL it would foresee the company having in the future months if the Kvaerner deal were to go ahead? I think, it is important from the point of view of the workforce, Mr Speaker, because as far as GSL is concerned, I think, the Government is hopefully holding on to its commitment that GSL workers will not be made redundant other than in a voluntary context and therefore they have a legitimate interest in knowing, if they are not going to be involved in ship-repairing, what they are going to be involved in. The Government's plans for that Company in a sense by definition really relate more to what the Company is going to do after it sells the ship-repairing part than before because once it sells the ship-repairing side GSL will have no involvement in that at all. This will, of course depend on the terms of any deal that may be struck. I think, in that respect that I should make further mention of the Joint Venture Companies and the sale of the various investments of GSL. The Joint Venture companies which have been alluded seem to be part and parcel of what is occurring with Kvaerner or what may occur with Kvaerner in that there is a slow process of commercialisation of the Government interests in the Yard. Government either directly through GSL or Government through the network of Joint Venture Companies seem to be divesting of what is in a very direct sense public assets. We have the £3m voted in this House in

1988 specifically for a process of restructuring which as I understand it, and the Minister will correct me if I am wrong, involved diversification into the Joint Venture Companies. A good deal of the money went in loans. I think, in fact, the whole £3m went in loans to the Joint Venture Companies to now be selling those Joint Venture Companies or disposing of them within a structure of diversification with money which this House voted. I think it is relevant to ask to whom have those shares been sold? Have they reverted back to the Government in their totality? Has GSL simply sold those shares back to Government and each of those companies have become 100% Government owned directly? Is a similar future envisaged for the other Joint Venture Companies? Or is the Government also considering the possibility of commercialisation for those Joint Venture Companies? I am interested, Mr Speaker, also to ask the Minister to address himself to the position of the MOD in relation to any possible deal. I do not know if this is an interest which is being taken into account or not being taken into account. There has been activity in the Yard recently, I think, in relation to submarines and other naval vessels and I think I would be interested in knowing what the Government's own assessment of the continued projection for naval work and whether in any deal which has been struck with Kvaerner, the naval element remains an important factor. If so whether firm deals with the MOD in that respect can be sought or not? There is the feeling in Gibraltar, nothing more than that, that the MOD would certainly prefer a ship repairing facility rather than say Disney Land on that patch of land and to that extent in the event of a private operator running those facilities one would assume that the Government is in a position to extract certain guarantees from the MOD as to the sort of work which it could be providing. Mr Speaker, dealing now briefly with the question of the possibility of funding the Yard if Kvaerner does not take over. I am concerned and last year there was mention of this, in relation to the EEC position and the need to ensure that we do not fall foul of EEC Rules. I think this House has rightly taken the view that the diversification programme is entirely within the pertinent Directives and that the restructuring monies which we have voted are entirely within the confines of Community Law. The reason I mention this, Mr Speaker, is that unless the Chief Minister can correct me, or the Honourable Member corrects me, my understanding is that the relevant Directives, in fact, expire in December 1990. The Directive I am referring to is Directive 87-123 and that Directive unless it has been superseded by another, Mr Speaker, states in Article 13 that the Directive should apply from the 1st January 1987 to 31st December 1990. If it has been superseded I would be grateful if the Government genuinely were to give us their own impressions on how they feel that future funding of the Yard could be sustained within the confines of that Directive? From this corner of the House, Mr Speaker, the fundamental worry which I have in respect of a take-over for want of a better word is that in the context of what is a technical insolvency of the Company, a situation

where because of the historical losses we find ourselves in a position of minus £1.5m and it does strike one as it being difficult for Kvaerner or anybody else to be prepared to take over an operation which in this most public of forums, this House, the Minister is on record stating in very clear tones that within the sort of structure has been contemplating the operation can never be profit making. Now that being the case, Mr Speaker, what I would ask the Government is accepting that the involvement of an outside operator is preferable, what further steps is the Government going to take or possibly have taken in the course of 1990 to be able to redress the perception that the Yard is potentially profitable? Or will the Minister say what other aspects of the deal are under consideration with Kvaerner which will make the take-over attractive to this Company? I think, Mr Speaker, that to simply come to this House and say, "the Company is minus £1.5m in worth but we have arrested the steep decline in losses and although we still are going to make losses we have at the same time somebody interested in bidding for the facilities". This seems to be such an unbalanced equation that this House deserves some explanation as to how the Government is putting this deal, not to Kvaerner but to anybody else? How is the Government selling this and what sort of guarantees or what sort of other attributes are there to this deal? Does it mean that it is not just the ship repairing facility which is being sold? Are there other things that are being sold? Are there other areas of land that have been sold and which the company might be able to diversify in and do other things, I mean Kvaerner? Are there other operations which the Government is prepared to let this company be involved in and which will make it more viable for them to have an interest in this Company? Because what we are talking about, if that is the case, Mr Speaker, is not just the sale of ship-repair facilities or the involvement of Kvaerner in that area, we will be talking about the disposal of other assets? Either of Government lands, Government activities or possibly Joint Venture activities or the permission by the Government to undertake certain other type of work from what would be an Industrial Park. The position in relation to the borrowing of the Company, I think, is also significant and I would like the Minister to confirm as I have indicated before in the case of the deal with Kvaerner not proceeding whether it is Government's preferred option to continue with the borrowing facility and whether that is the way it intends to fund further losses? My understanding from the Minister is that as from, I think, the beginning of 1990, he was indicating that Gib Shiprepair is up-to-date with all Government expenses. So the previous subsidy in terms of non-payment of Pay As You Earn, etc or the effective indirect subsidising or the effective delaying payments which was a way of taking account of the losses does not appear to be a strategy which the Government is going to be interested in embarking on or continuing in the future. Does that mean that any extent of losses which may be suffered is going to be at the expense of further borrowing which the Company is going to make? Or else how does the Government intend to support

the further losses which it, at present, seems to be indicating that the Yard is going to continue to be making albeit on a reduced capacity? I want to also make the point, Mr Speaker, which confuses me somewhat, I must say, and which I would like the Minister with honesty to reply to. I do see it strange, Mr Speaker, that the Accounts for 1989 have in fact been tabled in this House in mid-November 1990, in fact, they were already circulated to us two or three weeks earlier in draft form and the Minister for a good deal of his contribution has laid stress on the relative simplicity of the Accounts vis-a-vis last year. That this year things were easier, things were simpler but nonetheless things still took ten or eleven months to produce. There seems to be some inconsistency in the Minister's assertion on the one part that these Accounts are a much more simpler set of Accounts than last year and that the matters the Auditors had to deal with are less complicated. For example, there is no revaluation of assets, there is no major dealings with Joint Venture Companies, at least not in these Accounts, but yet it has taken us just as long to have them. I do not think it is in the interests of the House to be debating, even historically, a position that goes back effectively eleven months back although I accept that the Minister has given some details of the progress of the Yard in 1990. I would like not to believe, Mr Speaker, that there is any deliberate attempt to delay submission of Accounts. I want to believe that the Accounts are produced as expeditiously as is possible and that this House has the opportunity to debate those Accounts as soon as possible and in that respect therefore perhaps the Minister can explain what appears to me to be a contradiction. Mr Speaker, in general terms therefore, I think, in wrapping up on GSL that the view that I take is that the Company is clearly in a major economic difficulty. This is an historically matter and one which has been halted in 1990 although we do not have the Accounts to demonstrate in figures what the Minister has said. If the Minister is to be taken on his word that the losses have been halted in 1990 it does not detract from the urgency, the real urgency, as we see it to come to a more finite solution as to the future of the Yard. It seems to us that the position of technical insolvency, because the Government has an undertaking that it will underwrite the operations, it should not be sustained in Gibraltar's best interests and I would have liked to have heard from the Minister something more about what the Government plans would be to turn the Yard around and achieve some form of commercial viability. I think that must be ultimately the bench mark for success as opposed to simple economic viability as the Minister has defined it. I would like the Minister, the Government, to address itself to the point that if the Kvaerner deal were suddenly not to go ahead that it would not be acceptable just to content itself with the idea that we have slammed the brakes as far as the Government thought it could go although the vehicle is still screeching down that hill and we all have the suspicion that there is that wall at the bottom and eventually we are going to crash. In that sort of situation,

will the Government indicate what other type of restructuring would be necessary to stop that vehicle completely? It will have support from this corner of the House in any process of achieving commercial viability although I stress, I think, unfortunately in the diversification programme too much has been kept quiet and too much has been kept secretive. I know we differ fundamentally on the wisdom of conducting affairs in that sort of way but certainly conceptionally, Mr Speaker, there would be support from this corner of the House for stopping that vehicle because we do not think it is in the interest of GSL, its workers or generally in the interests of Gibraltar and the sort of environment we are attempting to create which is an environment where we try to ensure that people understand that they have to earn their own way. I do not think it is appropriate or desirable that Government should have such a huge interest at GSL and be publicly content to say "well we will simply keep on slamming the brakes because it is still going to be screeching down that hill". So the assessment of the 1989 Accounts, serious as they are, I am prepared to accept it in the context of the Minister's assurances and the Minister's comments in relation to 1990 and the performance of 1990 subject to further comments when we see those Accounts in the future and very much so, principally so, Mr Speaker, in the context of what I hope will be a recognition by the Government of a fundamental re-assessment of the need for a company like Kvaerner, or some other such entity, to invest in the Yard to give it an international network of contacts which will hopefully redress the Company's fortunes. Thank you, Mr Speaker.

HON M K FEATHERSTONE:

Mr Speaker, the Chief Minister is reputed to have said on one occasion that he gets his relaxation by perusing Balance Sheets. I do not know how much relaxation he gets from perusing the Balance Sheet of Gib Shiprepair? I think it is more likely to give him nightmares! There is one brutal and stark fact which emerges from the Balance Sheet and that is that the Company is in the red to the tune of £1½m. They are therefore basically trading in a state of insolvency and I would pose the question to the Honourable Attorney-General "Is there not something in Company Law which states that a Company in a state of insolvency cannot continue trading?" Of course, the Auditors cover themselves by making the note that they have an undertaking from the shareholders that any necessary financial support will be forthcoming. Who are these shareholders that promise that the necessary financial support will be forthcoming? Is it the Honourable Mr Pilcher, as Chairman of the Company? Has he not just said that the GSLP has decided that GSL would not get a single penny more? If the company were to be wound up tomorrow and there was a deficit of £1½m who is going to foot the bill? Some of the features of the Accounts bear a little more mention. The turnover has increased by approximately 11½%. Well inflation would

have taken up 7% or 8% of that. So the turnover has hardly increased at all. There is a loss in the share of profits from related companies of £55,000. These related companies are doubtless the Joint Venture Companies of which we hear all sorts of peculiar rumours. Of men sitting around idle doing absolutely nothing for days on end. One wonders if this is true and whether the losses are going to be greater this year than they have been last year? It is interesting to note that the amount of debts for PAYE has almost doubled. If this had been paid up, as it should have been, because when you take the money from the workers you should pay it to the Tax Authorities within thirty days according to the Regulations, if this had been done by increasing the bank overdraft then the interest payable to the bank would have increased by some £320,000 a year. So, Mr Speaker, by the Tax Authorities not insisting that this money be paid forthwith, the Government is really giving GSL a subsidy of £320,000. Another point is of accruals and other creditors of £1½m and one wonders how much of that is for Electricity and Water? Another hidden subsidy to GSL on the part of the general public of Gibraltar? I am heartened to hear the Minister say that since April the Company is producing sufficient to be at least viable economically, but he has stated that there are 175 men and they are working 200,000 manhours per year. That works out to about 4 hours of work per day and I do not think that 4 hours of work per day is a really good way to become commercially viable. Perhaps he might consider further restructuring to get the workforce to produce something like 7 to 8 hours a day when they are paid on an 8 hour day basis.

HON J E PILCHER:

If the Honourable Member will give way. Mr Speaker, I think the Honourable Member opposite has misunderstood. It is not that the men work 200,000 hours, it is that the company charges 200,000 hours.

HON M K FEATHERSTONE:

Well, I think that is a moot point, whether it is the company or whether it is the men. If they are only producing 200,000 hours of work and they have 175 men it does work out to 4 hours per day. One thing which we note with pleasure is that the fees to Directors has gone down very considerably from some £21,000 per year to £10,000. This, I presume, is the Managing Director with whom we do not quarrel at all. The leasing income we would like to have some details of what is being leased to produce this income. Is it partly the Omrod operation which is allowing for that? Because if that is so, then once again the general public of Gibraltar who will be paying the electricity charges to Omrod in due course will be subsidising GSL. There is a very great rise in the Bank Overdraft and the consequent interest payable on such overdraft and we wonder whether the bank is entirely happy with such a high overdraft and

whether they are putting pressure on GSL to see that this overdraft is reduced in view of the high level at which it is running. I know the banks normally only give overdrafts against some guarantee that payment will be eventually made and I wonder who has given this guarantee to the banks. Is it done on the assets of GSL? If so, with the assets in the red of £1.5m then the bank does not seem to be on a very sure footing. Or has the GSLP Government in secret given an undertaking to the bank that they will be covered in the event of anything going severely wrong? I think we have had a note of optimism from the Minister, the Chairman of GSL, with regard to the situation this year and I wonder whether it would not be a good thing for him to produce interim accounts up to, say, June this year, fairly quickly. It is a normal thing in most big companies to produce half-yearly accounts and we would then be able to see whether the turnaround has been as good as the Minister is forecasting. I am afraid that the situation next year will not be all that different to this year. We have been told there will be losses. They may not be £4m but they may be £3m which will put the company into an even greater state of insolvency and into a greater state of disrepair rather than shiprepair. Thank you.

HON CHIEF MINISTER:

Let me say that it is not a question that the Government is optimistic that the Yard has become a sound business, it has not. What we said in the Manifesto, in 1988 and what we told the Hon Member opposite when he was in Government from 1985 onwards, was that it was the wrong business to go into. We have gone into a business which is a very tough, competitive business, where most people were loosing a lot of money when we went in in 1984. It was the wrong decision. In 1988 we are stuck with that decision and we have tried to make the best out of a bad job. It was however a bad job to start of with and however much we tried to improve it, it will never be a perfect job. So let us not have any illusions about that. When we have talked about the Yard being economically viable as opposed to being commercially viable, it is because we are looking at it as a Government. If we were a private investor then the Yard would be a disaster because for the private investor closing the business would solve his problem and give the problem to the Government. For the Government to close the Yard does not rid itself of the problem because it may get rid of the problem as GSL but it generates a problem to the Government of Gibraltar. So no Government in Gibraltar or anywhere else in the world can look at the elimination of one particular economic activity whilst ignoring its impact on the economy, only private employers do that. So if we look at it as a private business then what the Accounts today show is that if the consultants that the Honourable Member's Government brought to Gibraltar at the beginning predicted one thing right then it was what they said in John Mackintosh Hall when a member of the audience asked "If you think it is a good business, would you put your money into it?". And the

answer was "Definitely not". That, Mr Speaker, is the one thing the advisors that the Government brought in 1984 got right. That they would not put their own money in it. However the British Government put money destined for Gibraltar into it and it all got used up as well. Then the AACR topped it up and that got used up and then we came in in 1988 and we topped it up. We had a situation where in accordance with the EEC Directive quoted by the Honourable Mr Montegriffo, we could not give a grant, so the restructuring exercise had a dual function, as we have explained at the time, it had the function of diversifying out of repairing ships in order to lessen the dependence on shiprepairing and it had the function of creating businesses which were not in shiprepairing. For example, the fact that Gunwharf was an integral part of GSL meant that Gunwharf could not get money without running foul of the EEC Directive because it was a yacht repair element in a shiprepairing Company. However if you separated it into two then you have a yacht repairing company and a shiprepairing company and the EEC law does not say anything about yacht repairing companies. So you can give assistance to the yacht repairing company. That was the logic. As a result we were also able to get a better idea of what was losing money because before the Accounts were integrated, in fact members opposite who were in Government at the time must know that even in 1987 under A & P Appledore, they had already started segregating internally the contribution in terms of costs and income of Gunwharf and GSL and we were able to move first with Gunwharf because that work had already been done in 1987. So the position is that the EEC Directive which the Honourable member asked me about has, in fact, not just been extended but if anything tightened up. No doubt members opposite might have been aware that in the news in the UK at the moment there is mention that a major ship builder in the Clyde employing several thousand people has been unable to survive and is likely to close because they are not able to get ship building assistance because of this Community Directive. The business has been building military vessels and the ship building subsidy cannot go to a yard that is classified as a military yard and the Clyde yard with three thousand people is on the point of closure for that reason. So the Directive is still there and if anything it has been made even stricter than it was before. We however believe that the way we were able to produce some assistance for moving out of shiprepairing to other activities, is as the member says entirely consistent with Community Law, and in fact we used that argument to ask for Community Funds, which unfortunately we did not get. We were however able to put up a case based on that analysis. The question of the devaluation of assets which the Hon Member asked me last year, in fact, was not, as I said at the time, in order to make the company more attractive to an outside buyer. You cannot sell this company. In fact you would have to pay somebody to take it off your hands. Let us not be in any doubt about that. This is not something that can be sold. The reason why we had to have a devaluation of assets was because of the window dressing

that the members opposite have talked about that was there when we came in in 1987 and which the Honourable and Gallant member Col Britto seems to have forgotten. That is that the Accounts last year showed that there had been £6m of window dressing between 1985 and 1987 where work which should have been shown as costs of production and therefore shown as increased losses were shown as capitalisation and we had a Slop Barge worth £4m which was valued in the books of the Company as £2m because they had shifted £14m worth of manhours from shiprepairing to capital works, and therefore they depressed the losses. They understated the losses by £14m by sticking it in the Slop Barge. When we came in we found that the Slop Barge was theoretically an asset worth £2m and you could not use it for scrap, never mind £2m and we then had an independent team of consultant engineers from UK to value every piece of equipment in the Yard, and when they went through the whole equipment, they said the book value was £6m higher than the real value and the real losses are £6m higher than the accumulated losses. We put that right last year and if the member opposite wants to do an analysis of what happened when the AACR run the Yard, which is news to me, because I did not know that the AACR was running the Yard when I was sitting over there because they constantly told me throughout the years that they were not running the Yard. That it was A & P Appledore and that it was not their fault that the Yard had been losing money. However now I have learned from the Member opposite that they were running the Yard. He will then find out that they did not lose £15m. They, in fact, lost £21m and that was explained in last year's Accounts. The position at the moment therefore is that we are not in fact confident that the Yard can be made commercially viable. That is to say that for the Yard to be made commercially viable it would really not simply need to stop losing money but it would need to start making money to start repaying £254m of accumulated losses and that is not a realistic proposition. Under our control, with our resources and with this level of manpower of a couple of hundred people one cannot produce profits of £26m within the foreseeable lifetime of anybody in this House. So that is not an option and we recognise that that is not an option. The options that we have at the moment is either we find somebody who wants to use the place to repair ships and invest money in modernising it and employ more people than we are employing and have a higher turnover and therefore make a profitable operation which we are not in a position to do. If we do not find anybody prepared to do that, then it means that we have a situation where we are keeping that place ticking over, not because it is the desired objective, but because the alternative to that desired objective is closing it down and putting the people on the dole. However because we are a Government we cannot follow that road, because at the end of the day there would not even be an economic saving. That is why we are saying today that the Yard has reached, in 1990, the test that we set for it in 1989. In 1989 when the Minister brought to the Council of Ministers the position of the Yard, the Government said, we will



give the Yard until June to demonstrate that after the restructuring at least the income will generate enough to cover its own losses in order that we do not have to be taking money out of other people's pocket to cover the losses that they make. This is what we announced in June and that is the test that they have passed. However that is the bare minimum you ask of any operation. That you should not even have to put money on top of it. That is the position we have reached today. We do not think we can frankly get much more of an improvement on that, so it could well be that the Yard next year will be showing losses of £3m by the time it is finished or £2m or something like that. To have started from eight and go to five or from five to go to two or three is for us a major improvement in fortyeight months but that does not mean that we are happy to be losing £2m. It is however better to be losing £2m instead of £8m. It is still not a good thing to be losing £2m and it is not what we would like to see but we do not think that we are going to be able to do a great deal more given the reductions that have already taking place. There is a basic minimum size of the operation below which it cannot go which is the reason why the business is vulnerable and it is not different from any other business, Mr Speaker. If you have a shop in Main Street then you need at least one shop assistant behind the counter. Now that shop assistant might be able to handle one hundred customers a day or one customer a day, but you cannot run the business with no shop assistant. You need at least one. So we have run the Yard down to a level where there is very little more that we can do to contract it. Therefore that creates a position where you need to sell a certain level of manhours a year to cover your costs. If you are able to sell more then you are actually approaching commercial success but if you sell less you are in the red and there is nothing you can do about it, because you cannot simply say to people "look we have got a ship coming for half a day and take the rest of the day off. If you have idle time then you have idle time. When we are talking about the output of the workforce which the Honourable Mr Featherstone was referring to, if people do not produce eight hours work in a day it is not always the fault of the people concerned. It sometimes is that as an employer the Company cannot provide eight hours of work on one particular day for that particular skill because there might be a ship that needs a lot of steel workers but does not need any pipe workers. That is not the pipe workers fault. We have obtained quite a deal of cooperation in getting people to undertake a variety of interchangeability, that was already started in 1984, and we just carried that exercise further but there is a limit. One man cannot have ten different trades that is just not possible. I think the position therefore of the Company today is that it is of course technically insolvent and it is going to continue technically insolvent for a long time to come because even if we find an outside operator the best that we can achieve is that if the outside operator is able to do a deal with the workforce, which is acceptable to them, and which means that they will be able to be offered

new jobs in the new operation, we have to keep this company in existence otherwise we would have to put it into bankruptcy. Because the only way it will cease to be technically insolvent is if it loses its workforce to some other employer and it then has some income from that operation of shiprepairing which it will gradually use over the years to pay off its accumulated debts. We do not think there is any alternative to that, short of say "well look this is not going to improve and therefore we will close it down". That is not an option that we are prepared politically to accept. That does not mean that we are saying to people in the Yard "you have nothing to worry about, because you are now making money". That is not the case and it would be the wrong message to give the people. Of course on the question of technical insolvency of a Company I do not think the Honourable Member opposite, Mr Featherstone, needs any guidance from the Honourable and Learned Attorney-General, because in fact when he was in Government, as Minister for Public Works and Chairman of the Gibraltar Quarry Company, he had long experience of being the Chairman of a technically insolvent company. So if the Hon Member was not locked up for being a Chairman of a technically insolvent Company then I hope that we will give equal treatment to my Hon friend and not ask that he should be locked up.

MR SPEAKER:

The House will now recess until 3 o'clock this afternoon.

The House recessed at 1.10 pm.

The House resumed at 3.10 pm.

HON A J CANEPA:

Mr Speaker, perhaps the first thing that would be in order for me this afternoon should be to congratulate the Honourable Mr Pilcher on the spontaneous applause that he elicited from the audience this morning. But then I am not supposed to acknowledge that that happened because in this side of the House we ignore what happens in the strangers' gallery. However, Mr Speaker, once again as was the case last year these Accounts come up for discussion very late in the year and if the debate last year was therefore of somewhat academic interest, this year it is only of limited passing interest having regard to the negotiations underway with Kvaerner and their supposedly impending takeover of the Yard. Because of this reality, I am sure that the Minister must actually know a great deal more about the financial position of the Yard during the course of 1990 than in fact he has let on. Because I am sure that information of that nature must be of crucial interest and importance during these negotiations. I should like to deal first of all, Mr Speaker, with the contribution of the Honourable the Chief Minister. He said that he was not at all optimistic about the future of the Yard



because he does not consider that it is a sound business. In fact, he repeated what he has said previously in the House and elsewhere that it is the wrong sort of business and that we should never have embarked on that particular venture. Although he did not go into it in any detail because his contribution was a brief one this morning, I think, that for the record, I should also do what I have done here in the House and elsewhere and that is to explain the circumstances in which the then Government had in reality very little more than Hobson's choice in having to go down that particular road. I, myself, and to a similar extent my former colleague Major Frank Dellipiani were amongst the most sceptical of Ministers in that administration about everything that we were being told. However in the exercise of collective responsibility we shared with our eyes open in the decisions that were taken. But as I say it was very much a case of Hobson's choice. What were the alternatives that were presented to us? First of all let us set the matter in its historical context. It was during the early part of 1983 that decisions and negotiations were conducted. At that time the frontier was closed. There was an impasse about the re-opening of the frontier because the Lisbon Agreement of 1980 which should have led to the opening of the frontier was effectively, between 1980 and the summer of 1982, in cold storage for the reasons that we all know. We had the Ministry of Defence, as a result of the Defence White Paper of November 1981, having taken a decision that the Dockyard would close and that the only thing that the British Government were perhaps prepared to, and I say perhaps advisably, see put in its place was a commercial yard. Why perhaps, Mr Speaker? Because the Treasury were advising the British Government in London that rather than put money into the conversion of the Dockyard into a commercial yard they could perhaps consider a "Grant Aided" situation. It was only our fundamental objections to govern in Gibraltar in a "Grant Aided" situation which politically made the British Government think again. However here we were in 1983 with a difficult economic situation with our prospects for the future not at all clear and the Yard closing and the British Government apparently only prepared, though at the time it was not clear how far they were prepared to go, to finance the conversion of the Yard but not prepared to finance an alternative use for the Yard. I must say, Mr Speaker, that the uses to which the Yard could be put were not that straightforward because in a situation in which you have three large docks it is not very clear what you can do with three large docks. You can fill them up and then you have a fairly large area to do something with, but in 1983 there were no investors queuing up to come and fill up the Yard and to put it to an alternate use. Therefore I am not saying that even today that area can be put to an alternative use. I have just come back from Newcastle and I have seen the former mines and associated areas between Gatestead and Newcastle which in the last decade have been put to a leisure-cum-shopping use, in fact, the largest shopping area in Europe, as big as Gibraltar, three miles of shopping and leisure activities.

A wonderful use provided that the money is there and investors are there willing to provide it for that purpose. However in Gibraltar, in 1983, that was not the case. The political and the economic climate in a closed frontier situation was not conducive to the Danes or the Dutch and other people that have come to Gibraltar since then putting up the money. That is why the East Side Reclamation never had any prospects of getting off the ground, Mr Speaker, and which in the future it could. So it has to be said in that context that the British Government were prepared during the course of those negotiations not just to put £28m but also £15m which later became £18m of guaranteed RFA work. The alternative, Mr Speaker, was Blands and Blands had certain conditions attached insofar as capital investment was concerned. Blands were just not going to put all the money themselves. They were looking for some other capital investment from the Government or from the British Government. There was also the fact that the Blands proposal meant that only 420 men would have been employed. We were looking for a use that would absorb, that would employ, all the men in the Yard. It was not acceptable to us to have 400 men employed and another 400 men unemployed. We could not have lived with that situation. If the Honourable members opposite had been faced with a situation in which 400 men were going to be unemployed then I think that their attitude towards the Blands proposal would not have been a very favourable or positive one. Their Union would also have taken a different attitude to Blands taking over the Yard and 400 men remaining unemployed. I also doubt if they would have gone along with that, if they would have agreed with that. I think they would have expected either the Gibraltar Government or the British Government to take on the responsibility of finding a use that would have effectively employed all these men. Today I hear on the news the Union calling upon us to in future not using GSL as a political weapon. By saying that, Mr Speaker, they are implying, or admitting that it has been a political weapon in the past and of course it did not just become a political weapon post March 1988 because it was a political weapon or a political football well before that. It was the main issue on which the 1984 General Election was fought and in 1988 the Yard was also used as a political weapon. However I suppose that the accusation is that we in the Opposition should not in the future make a political weapon of GSL. Those are however the realities, Mr Speaker, that is the background in which we had to go along in converting the Yard into a business about which many of us, some to a greater extent than others, had a question mark and we were worried naturally about the future. We were not confident in a situation in which there was a recess in shipping and let it not be thought that we did not give any credence to the Michael Casey Report, of course we did. Michael Casey was closely involved with us on the two occasions when we had negotiations with the Prime Minister and he was working with us during those days in London preparing the line that we were going to take with the negotiations. We could not on the one hand have a man working with us

and advising us how to tackle the British Government and the Prime Minister and on the other hand dismiss the Report that he produced. It was very much the case of Hobson's choice and Gibraltar and all of us have had to pay, to varying degrees, a penalty of that. I am sorry that I am going to really have to disappoint Mr Pilcher but let me reassure him that as a result of his plea last year about my description of him when I said that it was a psychosis of failure, I can guarantee him that I have crossed out half a page of notes that I had made attacking him and I am going to attack him much less because of that plea. I have reflected during the lunch hour that I should not hit him that hard. I was going to say many nasty things about him but I will forbear. However what I cannot do is to agree with him that just because last year was the worst ever year for GSL because it lost £7m in 1988 and because in 1989 it has lost £4½m in spite of the reduction in the number of directly employed labour force from 425 to 162 and in spite of absolute, I am glad to say, absolute and total industrial peace, in spite of all that the position of the Yard is not as rosy as he would like us to believe. It is not as rosy as that and I will come back later on and perhaps speak in a little bit more detail about that because the Yard has had to shed over 200 men. They are being employed in the related companies, in the Joint Venture Companies and those Joint Venture Companies for all we know may together be losing more than the £4m. The fact is that we do not know whether they are losing money or not or how much they are losing but we suspect that they are. In the absence of information, of proof, we suspect that the Joint Venture Companies are losing money and if all these amounts were to be taken together then the position may well be worse at the end of 1989 than it was in 1988. But as things stand at the moment that is something that we do not know for sure. I think therefore that the picture which is revealed by these accounts and I think, really that we should be very grateful to Kvaerner for their interest and we certainly, on this side of the House, sincerely hope that these negotiations will be successful and we certainly do not want to do or say anything that will in any way inhibit the success of these negotiations. The questions that we ask and which the Minister has not been able to answer were, I think, proper questions and even now I would have expected him, because they were not of a commercially sensitive nature, to have been able to answer my five supplementary questions to a much greater extent than he did. The only one that he has really answered, because it does not apply, is Gun Wharf. We now know that Gun Wharf does not figure in the negotiations, that this is a separate issue altogether unless Kvaerner were at some time in the future be prepared to take it over and then we would have a new situation. But I would have thought that having regard to the fact that the Minister said that what we have is an agreement, in principle, pointing the way forward and subject to the Union and the men agreeing, that the Government would have been able to say what the position in this Agreement, in principle,

is as regards redundancies? What the Government, in their own negotiations or discussions with Kvaerner, have arrived at on the future of the Pension Fund? Is it going to be distributed amongst the men? How does it affect the men who leave? And if and when Kvaerner take it over do the men that stay behind benefit from it? What indications have Kvaerner given about the management side of things? How many people are they thinking of bringing to Gibraltar on the management side? Also are they bringing any workers from outside Gibraltar? I had also asked the Minister about the reaction of the men? I would have hoped that the Minister would have been able to give some indication as to what attitude the men and the Union are taking. I think that people in Gibraltar need to know about these things if we are to make an assessment about the state of the situation, because as I say I do not think that they are commercially sensitive. I think we could have had some indications on these matters that would have put the debate in a more up-to-date perspective because here we are in November 1990 and because there are discussions at a fairly advanced stage if there is an agreement, in principle, discussing the Accounts of 1989 as if nothing was happening. I think the debate would be much more relevant and we would be able to make a better assessment as to where the Yard stands today if these questions were answered. Now Mr Pilcher has said that in his view and according to his criteria the Yard has reached a situation of economic viability. I do not agree with him on that assessment and as my Honourable friend Col Britto said if that criteria had been applied in the past then at various times between 1984 and 1987 you could have said that the Yard had reached a position of economic viability. The most notable period being a twelve month period, I think it was between 1985 and 1986, when, in fact, the Yard was making a small profit. If it was making a small profit then it had surely reached a position of economic viability and then the situation unfortunately deteriorated. The Honourable Mr Pilcher has done this morning what he did last year, he has produced a piece of paper in which certain broad figures are consolidated for the years 1984 to 1989, mainly on turnover, losses and so on and I think that there is a fundamental fallacy, there is an assumption made by Mr Pilcher in these figures that he distributed this morning, which amounts to a fundamental and erroneous fallacy and that is to deduct the RFA work between 1984 and 1987 worth £18½m as if that had not been done. As if that work had not been carried out. The reality is that between 1984 and 1987 the Yard did work for a number of clients and one of those clients was the Ministry of Defence and the amount of work done for the Ministry of Defence was £18½m. It was known when the Yard went commercial that this amount of work would be done because it was part of the Business Plan that was adopted at the time. It was part and parcel of the success of the negotiations that we had with the British Government in mid-1983 to secure this amount of guaranteed RFA work and therefore income for the Yard. It is a fact of life. It is an incontestable historical

fact that that money came into the Yard. So one cannot now just forget about it as if it was not part of the turnover. What is more if that guaranteed RFA work had not been undertaken by the Yard then who is to say what other commercial work and how much might have been done instead. So during that three year period instead of the Yard only carrying out £15.8m of commercial work it would have carried out more work. How much we shall never know, Mr Speaker. So, I think, it is totally fallacious for him to deduct that amount and then carry out certain calculations as to how much £1 of work is actually costing. Mr Speaker, if you produce £1 of work in the Yard how much has it cost the past and how much is it costing now? I think that the only correct and proper thing to do is to include the RFA work and if you include the RFA work, then between 1984 and 1987 the losses, as a percentage of the turnover are 56% or if you like every £1 of output work done costs £1.56. If we apply the same formula as the Minister has done to the years 1988 and 1989 we find that for the two years together it is 63%. Every £1 of work has cost £1.63. So I cannot go along therefore with the assessment that the Minister makes. I think no-one can because if you examine the workings of a company and it so happens that one of its clients was the Ministry of Defence then that is the only difference. So what the Minister has said is a totally fallacious. Neither can I agree with him that we can ignore the reality of the non-payments of Social Security and PAYE. I think that what we have is a very serious situation. The Minister, I think, said that they were up to date with the Social Insurance payments for the first Quarter of 1990 but I would like him when he exercises his right to reply to tell us how much is owed. What the position is about previous years? What the position is regarding PAYE and Social Insurance in respect of 1988 and 1989? I would also like to point out to the Minister again if we are to assess logically what the situation of the Yard was during the years that we were in Government, not running the Yard, but of the years that we were in Government then if we assess that situation I do not think that one can ignore the reality of what was happening at the time in respect of PAYE and Social Insurance. In 1987, the Yard only owed £0.3m in respect of PAYE and Social Insurance so it was virtually up to date. At the time when it was employing 800 men, the Yard only owed £0.3m so if Gibrepair had not paid Government what it owed in Social Insurance and PAYE then its trading position, its cash flow, would have been different. It would have had a few million more and therefore a smaller overdraft. In effect its position would have been different so we are not comparing like with like. What is happening now in reality is that PAYE and Social Insurance are being used as an indirect means of subsidising Gib Shiprepair. The Government is able to allow the Yard leeway in paying money owed. However, eventually matters will catch up and therefore what is really happening is that different standards are being applied to Gibrepair than presumably is being applied to

other private firms in Gibraltar. I do not think, Mr Speaker, that there is any private firm in Gibraltar, of a similar size, that owes the Government of Gibraltar sums of £2.2m in PAYE and Social Insurance. The Government has legislated by Regulation to take a tougher attitude on employers who are not up-to-date with PAYE but are these same strict laws or regulations going to be applied to Gibrepair? Because the reality is, Mr Speaker, and this is where the Minister went wrong this morning, the reality is that Gibrepair does not pay money which has been deducted from the men's wage packet in respect of Social Insurance contributions and PAYE. Gibrepair keeps this money because it cannot afford to pay it to Government. So I hope that the Minister when he exercises his right to reply will address himself to these questions. I would also like to direct his attention to Appendix 1. I would like an explanation as to the higher Administrative Charges, Security Fees and Service Agreement Fees in the paper that he previously circulated to us. Appendix 1 is not to be found in the Accounts although it is in the notes of the papers that he very kindly circulated to us beforehand. I would like him to address himself to that point as well. Again as last year, Mr Speaker, we have a repetition by the Auditors in connection with the financial statements that have been prepared under the going concern concept. Because the Auditors know perfectly well that there is a political commitment from the Government to meet the losses eventually and to keep the Yard afloat in the manner which has become clear from what I have been saying about PAYE, Social Insurance contributions and so on. But this, Mr Speaker, is the first time ever that the Balance Sheet of GSL has really shown that the Company is insolvent. If the assets were to be realised they would fetch less than the liabilities because the net current liabilities are £4.6m and the fixed assets amount to £3m. So what we have, Mr Speaker, in conclusion, and as I say I want to I refrain from attacking the Minister too hard, but what we have at first glance is, as Col Britto said, a certain amount of window dressing in these Accounts. At first glance we have an apparently improved situation in that the losses of £7m of 1988 have been reduced to £4.25m in the 1989 Accounts, but as I said, the labour force has been decreased from 400 hundred to 160 and it is now clear from what the Chief Minister said that we have reached the bottom line because clearly he thinks that one cannot go below a labour force of 160 otherwise you cannot run the shiprepair Yard. So, Mr Speaker, the bottom line has been reached. Labour costs for GSL are down but on the other hand £3m of work has been sub-contracted in 1989 whereas only £1.5m had been sub-contracted in 1988 and that is why I must come back to the question of the joint venture companies. In the last paragraph of the Chairman's report, Mr Pilcher says, on page 2, "during the last six months of 1989 the operating levels achieved reflected that with adequate controls of over expenditure a trimmed down workforce and the introduction of an enhanced price structure, the company losses had started to decrease". Perhaps, Mr Speaker, it should have added "and the losses of the Joint Venture

Companies had started to increase". That is the question mark, Mr Speaker. That is what we do not really know and that is what I was saying earlier and which I will repeat now in the absence of Accounts for the Joint Venture Companies. My assessment is that if what we had seen with a joint venture company like Gibraltar Labour Services during 1990 is anything to go by then they must be losing money. Because from what we hear the labour force of Gibraltar Labour Services are totally demoralised because for many months of this year they have had very little work to do. At least that is what they tell us that they have very little work to do and therefore we must assume, in the absence of Accounts for these Joint Venture Companies that the position must be that they are losing money. At least that is what a layman's observation leads one to conclude. If we are wrong, Mr Speaker, then I challenge the Minister to prove us wrong. I challenge the Minister to produce the Accounts of the Joint Venture Companies and prove that we are talking nonsense. If we are talking nonsense then the story of the last year of GSL is one of success and if not then it is the same again but under a different guise. Therefore, as I say, my challenge to the Chief Minister and the Minister responsible is to produce the Accounts of the Joint Venture Companies so that we see exactly what the position is. If they do not produce them then the first task that an AACR Government would be to undertake, in the future, to produce the Accounts and inform the public and to tell the people of Gibraltar exactly what has been happening with their money insofar as the Joint Venture Companies are concerned.

MR SPEAKER:

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

HON J E PILCHER:

Mr Speaker, I dare say that the last prediction by the Honourable Member opposite of a future AACR Government is as mistaken as his prediction last year that we were going to be here discussing the same kind of losses for 1989 as for 1988 or facing the same problem in June 1990, a repetition of the same scenario as we had previously. I however think that I have explained that already. I think, Mr Speaker, that what I have been doing throughout the debate is taking down notes on the various comments made by the various members opposite and although my colleague the Chief Minister has answered various of the points raised, there are at least certain points which were raised and which I should reply to. If I may tackle initially, Mr Speaker, the contribution by the Honourable Col Britto who, I think, intimated, Mr Speaker, as indeed the Honourable the Leader of the Opposition has, that what I produced last year and which I have produced again this year is a piece of paper without a value. A piece of paper that has been produced in order to analyse the position in a way that we wanted it analysed. What

we have done in this exercise, Mr Speaker, is not to analyse the turnover of the Company because as the Honourable the Leader of the Opposition has said rightly is that it is difficult to evaluate the turnover of the Company and compare like with like because of different circumstances. Therefore what we tried to do last year and what I have done this year is to follow the exercise in order to compare like with like and to do so we have to take out of the equation the turnover of the guaranteed RFA work, not because that work was not done but because that RFA work had inflated the cost or inflated the turnover and created a situation where the performance of the company in RFA work was such that the return that that company was getting for purely commercial work was incorrect. It is not true to say that this, in fact, further compounds the problem as the Honourable the Leader of the Opposition said, that if the guaranteed RFA work had not been undertaken other commercial work would have been undertaken instead, yes other commercial work would have been undertaken instead, but it would have been at £6 per hour therefore losing £1.23 for every single pound that they sold. If the £34m had been done at purely commercial rates then the losses instead of being £19m would have probably have been £40m. That, Mr Speaker, is the analysis that we made. We were not analysing the fact that the company did not do the work. What we were saying is "let us take out of the equation the guaranteed RFA work not because it did not happen but because at £18 per hour if I am not mistaken was the value of the work, that was not only subsidising the Yard, it was subsidising the commercial work which was being done at £6 per hour". That was the analysis that we were making, and I do not know what set of Accounts the Honourable the Leader of the Opposition has, but my set of Accounts for 1985 show that in 1985 the Company lost £3.7m, in 1986 it lost £3.3m and let us not forget, Mr Speaker, that it is true that in 1986 or 1985 they had only accumulated a PAYE debt of £0.3m but they had £28m to play around with. They had cash as working capital. I did not disguise the fact, Mr Speaker, this morning in my contribution. In fact, I think, I said it quite clearly that during 1989 GSL had been able to finance itself in two ways, by increasing the Bank Overdraft and by not paying PAYE and Social Insurance. I also told the Honourable Member opposite that during the course of 1990 all the Social Insurance had been paid, the historical Social Insurance, and I mean the Honourable Member opposite might have been a very good maths teacher, in fact, I had him as my maths teacher, but he does not understand anything about Accounts because whether you owe £0.3m or £20m that does not affect your Profit and Loss. There are profits and losses whether you actually paid the money or you have not and it does not affect your Profit and Loss. It affects your cash position and it affects your Balance Sheet but it does not affect your Profit and Loss. So the trading position of the company whether it has £0.3m or £30m in debt does not alter the Profit and Loss Accounts of the company. That, I think, tackles, Mr Speaker, the point raised by the Honourable Col Britto with reference to the piece of

paper. Even though I explained it at length last year, I think, that it had to be explained again this year because the Honourable members opposite went back to it again and tried to analyse what we had already analysed last year. Various of the points raised by Col Britto, in fact, I have made a note of one of the points that he has made. The question of Note 13. Something about £15,000 I am not absolutely sure, Mr Speaker, what the amounts due by those related companies are. I will give the Hon Member opposite the information that he requires but we are talking about £15,000 of a turnover of £10m or £11m. It is the same, Mr Speaker, as when the Honourable member opposite whose experience is limited to running a cash business, and I am not trying to belittle the Hon Member, where he is involved in selling records and toys which is a cash business. However when running a credit business with a turnover of £11m and one has to write-off £86,000 of bad debt then one can count oneself not lucky but it is a normal thing. It is not something abnormal for a credit company to write off £86,000 of bad debts, Mr Speaker. I think that the question of subcontracts has been raised and I have already explained the position last year. I have already explained this matter in connection with the restructure and therefore what the Honourable Member will see not only in the Accounts for 1989, I think it was already evident in the Accounts for 1988, is that as we have diversified and some of the Joint Ventures created have become subcontractors. So if I have the Security Company which the Hon Member mentioned in connection with security charges. Of course, Mr Speaker, the Security Charges have gone up because the Security Charges appeared previously under "direct labour", and if you take out the element of direct labour by creating a Security Company then you are paying a Contract and I assure the Member opposite that the security costs are much cheaper for GSL than they were when GSL directly employed the men. Part of the philosophy of the Joint Ventures is that the Security Guards are used not only for the security of GSL but to operate in other areas like traffic, etc where the company is involved in. Part of the increase in the subcontract element was also due to the first six months of the operation which was very labour intensive as I have explained and had also some subcontract element involved. The same is true of the Administrative Charges. Instead of carrying the Administrative Charges directly, we subcontract the administration to the Gibraltar Administrative Services Limited and I think that is why you have a trend of increases in Administration, increases in Security and increases in Services, which is a Computer Company. However if one looks as well at the major decrease in the direct costs of direct labour. Then one will see that there is a direct improvement in the region of £1.2m to £1.3m and that is still taking into account that the first six months of the operation, in fact the first eight months of the operation, GSL was still carrying a major element of the employees because the redundancies or re-deployment did not start until late in 1989. Basically it is a change

but a change that has produced a much cheaper operation and much lower overheads for the operation. I think Col Britto also asked "were we going to write-off the PAYE". Well the answer is we are not going to write-off the PAYE. As, I think, I said this morning the PAYE is carried in the books of GSL and will continue to be carried in the books of GSL. I also said this morning in answer to the point which, I think, was stressed by the Honourable the Leader of the Opposition that there are now much stricter and tougher laws on the question of PAYE. The Company is conscious of that and because it is being treated like any other Company we are taking active steps to try and see whether we can resolve the historical problem of the PAYE. It is not only PAYE because as I explained the Social Insurance for 1989 has been paid totally during 1990 and we are in a commercial way trying to see how we can pay back the debts accruing and the PAYE but there is no question of GSL or the Government writing-off the PAYE which GSL should have paid.

HON A J CANEPA:

If the Honourable Minister will give way. I forgot to ask him about the trade debtors. There is a reference made by the Auditor as to the steps that the company is proposing to take to recover these debts. I made a note of this but I have just broken up my note but there is a reference in the documents about those steps. Could the Hon Minister please give us some indication of that.

HON J E PILCHER:

I think Mr Speaker, unless I have left something out that I have covered the points raised by the Honourable Member Col Britto. I have very little to say about the contribution of Mr Featherstone.

HON LT COL E M BRITTO:

If the Honourable Member will give way, Mr Speaker. There is one point which the Minister has not covered and maybe I can bring it to his attention and that was my query on note 11 and certain investments in the related companies being disposed of during the year. Is the Minister going to give us more information on that and as well as on the policy of continuing to invest in the related companies when, in fact, the losses were £23,000 and £52,000 this year.

HON J E PILCHER:

Mr Speaker, if I may return to the question by the Honourable Col Britto, these are in fact investments in related companies, like for example there were investments in related companies prior to our taking over. For example Chubb Fire, Bond Instrumentation. In the case of Bond Instrumentation it was part of what was written-off in



1989 and there were losses the previous year. Chubb Fire is also included here Mr Speaker and I think there are also one of the smaller entities which I think is Oxy Limited that also sustained a loss that year. I will give the Honourable Member if not immediately, but I will give him a break-down of the loss of £55,000. Mr Speaker coming on to the contribution by the Honourable Mr Montegriffo most of which has been answered by the Honourable the Chief Minister but there are various elements that he questioned such as what was the situation reference Ministry of Defence work. The situation is as indeed it was on the 25th March that we have not had any MOD work other than normal MOD work that is obtained via commercial arrangements. We do some work for the MOD with regard to visiting ships and we do some work for the RMAS. But this is done purely on a commercial basis. There is no guaranteed element as it was known before. That ceased at the end of December 1987. It is no secret that the navy is cutting back further and further and there is no possibility of getting any guarantee of obtaining any work for GSL other than by purely commercial lines. Therefore the MOD comes under the category of commercial work and if they need us to do a job, not only the MOD but the American navy, it is done in commercial lines. At the present time we are doing some work for the American navy but it is under the guise of commercial work and therefore the question that I think the Honourable member was asking was "what is the MOD's perception of what we are trying to do with Kvaerner". Well at the end of the day, Mr Speaker, what the Government will do in looking at the future of GSL is take into account what is good for Gibraltar and the people of Gibraltar. The MOD have since the end of 1987 as the Honourable the Leader of the Opposition very aptly said that to a point it was political blackmail that had us accept A & P and that we have all been paying in varying degrees for the problems that have arisen since then. Let me add that, as I mentioned last year, the Government would want the future of that area to be for shiprepairing because we feel and, I think, I mentioned it last year, that the port package which Gibraltar offers is further enhanced by a shiprepairing operation. But like we stressed last year it is not a question of us continuing to suffer losses in GSL because we want to have shiprepairing as a package. Our preferred option is shiprepairing but as the Honourable the Leader of the Opposition said if in reviewing the future something happened and an investment not of a shiprepairing nature arose that would also be taken into account. However at this moment we are not in fact discussing that particular element because the Kvaerner deal which is what we are looking at now is basically one of shiprepairing.

HON A J CANEPA:

If the Honourable Minister will give way. I forgot to ask him that last year he mentioned that only two of the docks were being used and that the Government had not been able yet to take a decision on the use of the third one.

He has not said anything about this in his first contribution. If he could address himself to that I would be very grateful.

HON J E PILCHER:

Mr Speaker, the last point, I think, is very important point as a result of something that happened during lunch-time refers to the points raised by the Opposition as well as a TGWU/ACCTS Press Release this afternoon in connection with our not being content with economic viability. The Yard, Mr Speaker, is still losing money, that has been made absolutely clear given the way that the business is operating, even if we arrived at commercial viability, it would just break-even. I think, that is what I mentioned this morning. Break-even with no possibility of paying back to the people of Gibraltar the losses. The £6m that have directly come from the local tax payer or the £28m that came from Britain. So, I think, in answering the point I must say, of course, we do not want the vehicle to just keep going down the hill screeching in the hope that some day we will stop it. It is also pertinent to say, Mr Speaker, that in the first paragraph of the Press Release issued today by the TGWU they say "welcome the Government statement that GSL today is no longer accumulating losses and that commercial viability is now possible". Mr Speaker, at no stage during the debate this morning has any of us said that commercial viability is possible what we said was that economic viability has been attained. The Chief Minister aptly explained it when he said that if we were to close down the Yard tomorrow it would cost the Government more to do so. This is as a result of not just a commercial entity closing down and paying redundancy and off it goes. There is a loss to the Government because it has no revenue and it is left with a problem of the employees. That, Mr Speaker, is what was said this morning. Let me repeat it again that at no stage have we said that GSL is now on the verge of becoming the important pillar of the economy as it would have originally been, had it not been for the squandering of millions of pounds. We have not said that, Mr Speaker, and I thought it was pertinent to explain that that is not what has been said by me in the House of Assembly. There is no way, in fact, as I mentioned it clearly this morning that the Government of Gibraltar can invest £6m, £7m or £8m in the Yard with no possibility of a return of that money because even if we did get a break-even situation we would then have somewhere in the region of £34m or £35m to pay back. This sort of investment has not the priority which other investments have when we are investing in our future. The statement made by the Transport and General Workers' Union and the incorrect analysis made in those statements has to be explained and cleared up because, as the Chief Minister said and as I stated this morning quite clearly, we do not think that even if we obtained commercial viability it is going to mean that the Yard is going to be making millions of pounds of profits. If anything at the level that we are now, commercial viability might just about break-



even. So, Mr Speaker, it is not an element or a business that we want to be investing £8m to £9m in the future. That has to be made absolutely clear.

HON M K FEATHERSTONE:

If the Honourable member will give way. He has not answered my query how the bank overdraft has been secured.

HON J E PILCHER:

Mr Speaker, the bank overdraft is not a secured bank overdraft and it is a bank overdraft which we have agreed commercially in this particular case with Barclay's Bank. It is not secured directly by the Government of Gibraltar or else it would have had to have been brought here. It is an arrangement between Barclay's Bank and Gibraltar Shiprepair Limited.

HON A J CANEPA:

Mr Speaker, the rate of interest is considerably higher?

HON J E PILCHER:

The rate of interest is the normal commercial rate of interest and when I bring the Accounts of GSL for 1990 it will be seen how this overdraft is affecting the accounts. Because if I am not mistaken there is somewhere in the region, and please do not quote me to the last penny, of about £30,000 in the Accounts of GSL every month in connection with the bank overdraft. It is purely a commercial arrangement like all the arrangements that GSL has had during 1989, Mr Speaker.

HON G MASCARENHAS:

Why is it not secured Mr Speaker?

HON J E PILCHER:

Because, Mr Speaker, to secure it would require having to come to the House of Assembly and if the House of Assembly secured £3m that would be contrary to the EEC Directive because that would be a subsidy to the company. A Bank overdraft secured by the Government is taken as subsidising the Company. If I may just tackle the points raised by the Honourable the Leader of the Opposition. I am not able, believe it or not Mr Speaker, to say anything on Kvaerner until that Company and the Unions arrive at a Labour Agreement. I am not able, Mr Speaker, because we have not yet decided what is going to happen with the Provident Fund or what is going to happen with redundancies. At this stage that is all hypothetical. Until such time as Kvaerner arrive at a Labour Agreement with the TGWU it is not possible for us to sit down and negotiate either with the Unions or with Kvaerner and I do not think, Mr

Speaker, as I said this morning, to tell the House what it is that the TGWU and Kvaerner are discussing and what are the points that they are agreeing to or not agreeing to. I think that is not the role of the political arm of the GSLP, nor is it the role of the Chairman of GSL because this is the TGWU meeting Kvaerner. Not as employees of GSL but as Trade Union members meeting a prospective employer. I do however want to stress that there is unanimous agreement in the House that the best way forward for the Yard would be for a takeover. Again I have explained what "take-over" by an entity like Kvaerner means because as I explained this morning and I am not going to repeat it, and which I think the Union in their Press Release have completely ignored is the question of Capital Investment. Idle Time, the Repayment of Debts and a lot of points that have been raised this morning and which I explained as to why it was that we felt politically, and the Board of GSL today feels, that this would be the best way forward. That only leaves Mr Speaker, to comment on the point raised by the Honourable Col Britto, on Item 3 in the Auditor's comments when he said of an increase of £1.2m in respect of trade debtors as being absurd, but it states also that "this continues to be a problem, but I understand that the company has taken a more positive line to reverse this trend". Basically, Mr Speaker, what the Company has done during 1990, and I think I mentioned it this morning, is that the company is obviously not losing the amount of money that it had been previously and it has been possible to start meeting its commitments to its trade creditors and I think once you start paying trade creditors and you have a normal trading process then it is much easier for the company to start advising its trade debtors, which in some cases may even be the same people, that it is now in a position where it is paying its debts and wants to get paid in return. There has been a much more forceful approach and in the new tariff structure pricing policy. We have introduced a different vis-a-vis the one that A & P had in debt collection. For example during the time when we took over the normal payment terms were 30% on leaving the dock, 30% thirty days later and normally 40% ninety days later. These were the normal terms for the shiprepairing work. It could sometimes be reversed 40%, 30% etc but normal was what I have stated first. We have reversed this, Mr Speaker. We have changed the system and we now have a situation where in most cases GSL is charging a 50%, 30%, 20%. 50% when the ship leaves the dock, 30% a month after and 20% thereafter. That has created difficulties in the case of a new customer but with a much more forceful policy through its debt collection agents and the payment of trade creditors has smoothened the collection of trade debtors. That is the more forceful line that the Auditor has mentioned and I think, Mr Speaker, that Honourable Members opposite will see this reflected in the 1990 Accounts. With regards to the point about docks, Mr Speaker, raised by the Leader of the Opposition it is not only the docks, perhaps I forgot to mention this morning, but I said last year that there was a physical restructure of the Yard and it meant not only the non-use

of No.3 dock, but the non-use of facilities in the main wharf. The problem related to this Mr Speaker, is very difficult to stop using facilities in the main wharf which now has been handed over to the Industrial Park. Everything, in fact, east of No.3 Dock now forms part of the Industrial Park and is part of the new set up. But, of course, until such time as there is an investment in new buildings and new infrastructure for GSL it is very difficult if you have a spare berth at Berth 44, which is in the main wharf, to berth the ship at South Mole and have everybody walk from the Engineering Shop all the way to the South Mole. In the case of the No.3 Dock although the decision was that the operation would be structured in a way that we would only use Docks 1 and 2 it has been found necessary during the year and during the latter part of 1989 to use the No.3 Dock. We have used it accordingly because we felt that if we had two ships in dock and we had another ship coming in and we had the capability of doing it we have utilised the No.3 Dock. Although there has been no change in the overhaul decision to cut back on the physical size of the Yard, in some instances we have gone back and we have used No.3 Dock and we are still using the Main Wharf but that is associated obviously to the physical restructure of the Yard which cannot happen until the investment is there, Mr Speaker. I think I have covered most of the points raised, Mr Speaker, and as I said I would like to stress that we are talking about a situation where as we said in our Manifesto we committed ourselves to halt the decline ie to halt the situation where GSL was losing more money than it was contributing to the economy directly. We have done that although we are still far away from commercial viability but we have reached the first part of that equation.

The House noted the Accounts of Gibraltar Shiprepair Limited for the year ended 31st December, 1989.

## BILLS

### FIRST AND SECOND READINGS

#### THE ENDANGERED SPECIES ORDINANCE 1990

HON J E PILCHER:

Sir, I have the honour to move that a Bill for an Ordinance to control the import into, the export from, and the sale in Gibraltar of endangered species be read a first time.

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

#### SECOND READING

HON J E PILCHER:

Mr Speaker, I have the honour to move that the Bill be now read a second time. There is I assure the House no

reason why having finished the debate on GSL I now move to a Bill on Endangered Species! It is purely coincidental. Mr Speaker, all that this Bill does is that it updates the 1976 Ordinance which gave into effect the Washington Convention in international trade in Endangered Species which I think as CITES is the abbreviation. Despite the fact that there have been regular changes in the Convention since then, the Gibraltar legislation has not been brought up to date. The present Ordinance, Mr Speaker, updates all Schedules and includes the recommendation of the last Convention meeting which was held in January of this year. This Bill therefore, Mr Speaker, puts us totally up to date with this type of situation worldwide. The Schedules are as follows:

Schedule 1, controls the importation and exportation of animals. The schedule has two parts. Part 1 prohibits all movement of the species listed and Part 2 restricts movement of licensed specimens.

Schedule 2 controls the importation and exportation of plants. This schedule also has a Part 1 and a Part 2.

Schedule 3 controls the importation and exportation of items made from Whale, Elephants, Crocodile, Rhinoceros, etc. Items such as Ivory, furs etc.

The Ordinance, Mr Speaker, gives protection to many species including all birds of prey. The Schedule also includes for the first time important local species including the Barbary Partridge and plants and snails particular to Gibraltar. The Barbary Macaque has been included in the original Ordinance. The enactment of this legislation must be seen in the broader context of nature conservation in Gibraltar and this Ordinance regularises all movements at our borders. The enforcement authority for this Ordinance, Mr Speaker, is the Collector of Customs and it continues to have a provision for a Statutory Body in this case called the Scientific Authority which advises on all matters connected with the Ordinance. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON K B ANTHONY:

Mr Speaker, we in the AACR Opposition fully support this Bill because we are very conscious of the environment and also of the need to protect endangered species. However having said that, there are a couple of points in this Bill which I think need to be answered and possibly the Hon Minister could do in his response to the Bill. First of all I have read through it very carefully and my latin

knowledge is virtually nil and I would have appreciated it very much if there had been an addition to this Bill of the different species listed in layman's English. After all the Bill is for the use of the public and I do not think that any trader in town, and it does refer to the sale in Gibraltar of endangered species, the traders need to know what they are talking about. I am suggesting that as an addition to, not in place of. I think this is a rather important matter. Now the selling of endangered species and Schedule 3, Mr Speaker, which refers, as the Honourable member has said to ivory, furs, feathers etc. Does this mean that a lady who perhaps has an Ostrich feather fan which is an endangered species is forbidden from selling it? Because this could well be the case in law. What will be the position, Mr Speaker, of a trader who perhaps has ivory artifacts in his shop at the time that this Bill comes into effect? Is he banned from selling those? I could go on with lots of trivia but they are important points in law. Shaving brushes, Mr Speaker, very good quality shaving brushes are made of Badger hairs and Badgers are an endangered species. Does that mean that no longer will one be able to buy a Badger hair brush? Painters use Squirrel hair brushes but red Squirrels are an endangered species in Great Britain. Are these going to be taken out of circulation? I am not nit picking but I genuinely would like to have an answer because once this law is passed it means that from that date these items, in theory, should not be sold. As I said at the beginning, Mr Speaker, my knowledge of Latin is very limited. Are bird's eggs included in this particular Bill? Birds eggs are a very lucrative trade in certain endangered species and the sale of eggs of these species. Are these included or not? I do not know. So perhaps, Mr Speaker, the Minister when replying to the Bill could perhaps provide an answer. Possibly the Latin names in English. Somebody said to me today "I go into a plant shop and I buy a busy-lizzie but I do not go in and ask for it in the Latin name". That is a very valid point and the Bill to be of any use must be understandable to the public. Although there is a Scientific Authority who no doubt have the expertise to distinguish what these things are I do not think that any member of this House with all due respect, perhaps the Leader of the Opposition might, but I do not think that anybody else here knows what they are and I think it is necessary at least to let the public have as much information as possible available to them. So as I say, Mr Speaker, we will be supporting the Bill because we believe in the protection of endangered species but the questions that I have put need to be answered before this Bill goes through its next stage.

HON P C MONTEGRIFFO:

Mr Speaker I would like to add some support to the points made. I look at it from the point of view of the legality of the situation. I think that the use of a Latin term in an official document including a Bill, I think, is acceptable where that Latin term has a recognised meaning

in the English language. A lawyer, for example, uses a legal phrase because within the English language it is accepted and that legal phrase is used in certain contexts and has a very specific meaning and that, I think, is fine. In this situation however the use in a scientific sense, as opposed to legal sense, I should like the Attorney General to express the view as to whether anybody could rightly be prosecuted for selling or displaying something for sale which is included in Latin as being forbidden when Latin is not taught in schools anymore. I do not think it is unreasonable that even as a matter of law, let alone as a matter of practice, we should be making the point that is this really workable? Other than that I entirely agree with the Bill.

HON A J CANEPA:

Mr Speaker, there are four Honourable Members at least who I think are in a happier position than the Honourable Mr Montegriffo and the Honourable Mr Ken Anthony and that is the Honourable the Chief Minister, the Honourable Doctor Valarino, the Honourable Col Britto and I myself who were fortunate to have been taught Latin at the Grammar School. But perhaps, I think, it is a point that is valid and I have no doubt that we shall get clarification of this matter. However looking through the Schedules it was with great anxiety that I looked through them until I arrived at page 291 when I am very glad to see that the Cuculeformes have been included and then later on page 296 I was particularly worried about the Crocodylus Porosus and I am glad to see that they are both there and therefore I shall be voting in favour.

HON CHIEF MINISTER:

Mr Speaker, we in fact have also looked through this list and since, in fact, all that we have done at the level of approving the legislation by Council of Ministers was to incorporate what we are assured is being done internationally by everybody else, we have not added or deleted any endangered species which might be endemic to Gibraltar. We had thought of adding the AACR, but we came to the conclusion that they were not worth protecting and therefore .....

HON A J CANEPA:

Mr Speaker, the Chief Minister settled for the Civil Service?

HON CHIEF MINISTER:

No, Mr Speaker, the Civil Service is also absent and they can also be got rid of. This allows us to meet established standards and of course the essence of the legislation is to stop the movement of plants and animals across international frontiers and the real control is supposed to be in the exporting and importing stage. But, for example in the case of the ivory which the Honourable Member opposite

mentioned, although it was generally recognised that the effective way to stop it was to stop the official exportation and importation and therefore no export or import permits would be given. In pressing for a more rigid control it was agreed generally that even though in practice the control of sales might be difficult and you might in fact be legislating something where the goods on sale may continue to be on sale although technically by the letter of the law they should not be sold. However, it was considered that it was necessary to do that as the only effective way of discouraging the illegal trade in illegal imports and exports and therefore the theory is that even if people have a stock of things that they should not have on sale eventually as the stock runs out of ivory products or whatever then it will be increasingly difficult for somebody to sustain the argument that he has always had it and, I think, it is intended to be a deterrent more than an effective measure. The real effective measures are supposed to be if somebody were to request an import permit for these prohibited imports. We are highly unlikely to be exporting any of them.

MR SPEAKER:

If no other Member has anything else to say, I will ask the mover to reply.

HON J E PILCHER:

I think that the position has been made very clear Mr Speaker. As regards the points raised by both the Hon Mr Anthony and Mr Montegriffo, as the Hon the Chief Minister has said, this is exactly the same as what has been passed in other areas of the EEC and it falls very closely with the United Kingdom legislation. I bow down to any comments that the Attorney General might have but as far as I am aware these are the legal names of the species involved and whether there are familiar names or not these are the legal names and this is the way that the legislation has been drafted. However I will give way to the Attorney-General.

HON ATTORNEY-GENERAL:

Mr Speaker, I think what I need do is to confirm what the Chief Minister has said as absolutely accurate. We in Gibraltar have merely followed the format in compiling the Schedules which countries in other parts of the world have done. That is the official language and it is deemed to be the official language for the purposes and in the context of this Ordinance. Therefore who are we to endeavour to change the format. There is furthermore, Mr Speaker, a safety catch inasmuch as the Attorney-General's permission is required in certain circumstances, as Honourable Members opposite are aware before a criminal prosecution can ensue and obviously, of course, as always if there is any suggestion as to whether the criminal prosecution is appropriate then in each and every case it would be sent to me for consideration on its individual merits before a decision is reached.

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

HON J E PILCHER:

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

This was agreed to.

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) (NO.2) ORDINANCE, 1990

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, Honourable members will have seen that other than correcting the spelling in the original Ordinance the amendment which I have sought Mr Speaker's leave to moving at Committee Stage, in fact, changes the whole paragraph of the intended legislation and that is because although the object of the Bill continues to be that of giving the City Electrical Engineer the power to enforce certain standards, the way that that Bill read or reads before the amendment is that the standard, the Regulations of the Institute of Electrical Engineers in the United Kingdom are the ones that can apply only and unless those standards are reached then electricity cannot be supplied to consumers. Now having checked the position in the United Kingdom and having found that in the United Kingdom that is not the position and that in any case within the European Economic Community they are moving closer to an agreement whereby we would eventually have to accept other standards. We have had as a result to change the clause and amend it so that we allow the City Electrical Engineer to have a say in the standards in installations. This will give him the discretion to be able to allow a different standard which is not dangerous in any way, either in the installation or in the use of it. This legislation has not been looked at since 1954 and what this clause also does is that whereas there is another clause in the section that covers electrical installation standards for household and small shops, this extends those standards to other businesses and to other types of installations, for example, installations in Industrial Sites, installations

in construction sites, installations in petrol stations and similar things which have been absent before. So what we are really doing is setting the standard which is the Regulations of the Institution of Electrical Engineers in the United Kingdom. We are however copying the United Kingdom in leaving leeway and flexibility for the City Electrical Engineer to give power to a consumer that might not have reached that standard installation but has an installation which is safe for all intents and purposes. The other thing of course is that it allows different standards other than those, for example, of North European countries type of installations and the only thing that is dividing the European Community or prohibiting the European Community from coming up with a Directive is with the number of years by which countries will have to abide by that Directive. I do not think we would be caught out because our standards have always been rather high but believe it or not they are quarrelling about the type of plug at the moment. Once they have sorted that out there will be a European criteria for installations which will be approved by the International Convention before it actually becomes a Directive and then under this Ordinance the City Electrical Engineer will continue to have the power to accept that type of installation although we still think that it is important that our standards should be guided by the United Kingdom and that that should be our objective as is pronounced in the legislation. 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 K B ANTHONY:

Yes Mr Speaker, very briefly, I followed the argument put forward by the Honourable Minister and I do understand fully. I think I am probably the only member of this House who knows the IEE Regulations almost backwards because for many years it was my bible. It is quite true what the Honourable Minister has said that the plug is the problem. In Germany and in most of the Northern European countries they use what they call the three pin plug system. The two plug system is used in Spain and it will eventually come down here in time and I fully agree that with accidents in the home being one of the most prolific accidents anywhere we must make certain that electrical safety is of paramount importance and I cannot think of a better standard than the IEE Regulations. They are updated every year and they ensure that if an accident happens and the installation has been installed by a professional electrical engineer the chances of any accident happening as a result of the installation are very remote. It is usually the householder who creates his own accidents by doing his own do-it-yourself within the House. I fully agree, Mr Speaker, that the City Electrical Engineer in the interim period before the legislation from the EEC does apply to Gibraltar should

have a degree of flexibility so that if a building or any installation is up to a standard that satisfies his criteria, even though it may not necessarily be the IEE Regulations, then so be it. So Mr Speaker, we will be supporting this Bill.

HON P C MONTEGRIFFO:

Mr Speaker, just the one question. Could the Minister clarify one aspect only? The discretion that the City Electrical Engineer is to have, is that discretion to be exercised on a case by case basis, in other words, a particular installation on a building would be inspected by him or by his officers and he would say, "I am happy with that". Or is the idea that the City Electrical Engineer would have discretion to accept say the Spanish rules in relation to electrical installation or is it case by case or generally the rules of a particular nation.

MR SPEAKER:

If no other member wishes to speak I will ask the mover to reply.

HON J C PEREZ:

Mr Speaker, the Installation Inspector would continue to be guided by the standards in the Ordinance. It is at the development stage when there are proposals being put to the City Electrical Engineer for a particular standard that a developer might want to introduce that the City Electrical Engineer will use his judgement and therefore the Installation Inspector would have been informed by that stage when he goes to inspect the installation as to what he should look at in that different standard and at the danger element in it and not the IEE Regulations.

HON P C MONTEGRIFFO:

If the Minister will give way. So really at the end of the day, at the development stage, is when the safeguard considered for a recognised set of standards, be they not British but Danish, Swedish, Spanish or whatever.

HON J C PEREZ:

That is the most important element of it. However I do not know if some of you will recall that about three or four years ago the IEE Regulations were updated and there was a need for an earth cable around the sink to be placed. Now what the City Electrical Engineer has not the power to do under the Ordinance is to stop a consumer receiving electricity because it does not have that earth cable around the sink. Therefore what the Installation Inspector does in such cases is that every time he inspects an installation they recommend that the consumer should put that earth cable but the electricity is given to that consumer. That basically is the generality of it. What is in that clause

is practice today because if it was not then everytime the IEE Regulations are adapted we would have to go to all our housing stock and advise all our other consumers to change their installation or we change it for them. The City Electrical Engineer has the power already to give electricity to consumers as long as he is satisfied that there is no danger in the installation. But that is why I am saying that it would affect most developments because it is about new installations coming up.

HON K B ANTHONY:

If the Honourable member will give way. I think I can clarify that point. The reason for the sink being earthed is because of the introduction of more and more plastic piping. At one time it used to be lead piping that was used for water supply and that was taken as the earth. However now with plastic piping coming in more and more, Mr Speaker, it is becoming essential for safety to have sink units earthed.

HON J C PEREZ:

Mr Speaker, according to IEE Regulations it is not for safety reasons. They recommend it but they do not have it before you are given power.

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

HON J C PEREZ:

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

This was agreed to.

THE TRAFFIC (AMENDMENT) (NO.2) ORDINANCE 1990

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, Honourable members will recall that some months ago the Trade Licensing Ordinance was amended to exclude Road Transport Contracting in order to comply with Community Law. At the time the House was informed that the effective date of this amendment would

coincide with the introduction of new legislation which would regulate Road Transport Contracting under the auspices of the Traffic Commission. The Bill, Mr Speaker, brings into effect the powers under which the Traffic Commission may regulate Road Transport Contracting as from the 1st January 1991. The effective date of the amendment to the Trade Licensing Ordinance will therefore be the 31st December 1990. The Bill also introduces other aspects of EEC legislation as it relates to Transport Contracting and on the mutual recognition of diplomas and qualifications for road transport operators. As a result of EEC changes, since passenger vehicles over eight seats come under a new category, the Bill also specifies what in fact is the situation today in respect of Road Service Licences with eight passenger seats or less. The Bill also extends the requirement to licence motor cycles of 50cc or less. Some members might recall that the previous administration did away with this requirement in order to encourage more people to use mopeds in lieu of cars. However after careful monitoring by the Traffic Commission and more particularly by the Gibraltar Police, evidence exists that accidents have occurred and those involved have not been able to be identified as a result of the moped not being registered. Additionally although the need for Insurance cover for mopeds was not removed, in practice, the only way to ensure that the vehicles are duly insured is by re-introducing the requirement to licence. Another factor that has been brought to our attention by the Police has been the question of stolen motorbikes. The Police claim that it is very difficult to find a particular bike or to prove that that particular moped was stolen given the non-registration of the vehicle. The incentive to use mopeds however will still exist in that a lower rate of duty on the vehicle is being paid and the non necessity of using a helmet are to be maintained. The Bill also gives effective power to the Traffic Commission to revoke, suspend or not renew Licenses including Licenses to drive Public Service Vehicles. Whilst powers already are supposed to have existed for the Commission to do this, the Government was advised that the law needed to be changed to crystallise those powers and remove other interpretations that might be given to the Ordinance. Another change is that whereas at present a simple objection to the grant of a license would suffice to force the Commission to hold a public hearing, the Bill introduces new responsibilities on objectors so that valuable time is not lost by members of the Commission. Needless to say aggrieved parties may still take their case to a court of law. Mr Speaker, as you are aware I have given notice that I propose to move several amendments at the Committee Stage. If I may I would like to explain them now to give Opposition Members a chance to compare the amendments with the Ordinance before we come to the Committee Stage. These changes do not conflict with the general interpretation of the Bill which I have just explained. Indeed some are spelling mistakes or omissions. As you are all well aware, the Bill was late in coming out from the printers. There are however some more substantive amendments which I will explain in general principle now



for the benefit of Members opposite. What the amendment to Clause 10 is designed to do is to streamline the procedure for applications, objections and consideration and issue of licenses, to encompass both Road Service Licences and the new Operator Licences. Had we not brought this amendment in we would have finished up with two completely different procedural systems, one for the new Operator Licences and the old system for the Old Road Licence. The amendment to Clause 11 therefore follows given that most of it is now encompassed in the amendment to Clause 10. The amendment to Clause 12 is also consequential. The new Clause 15A is intended to make the Commission responsible for the administration of the renewal of licences rather than the holders of such licences in relation to advertising renewals. That is to say, that whereas the person that applies for a licence is responsible for advertising that licence and for submitting the application and the objectors, if there are any, are responsible to advertise themselves, when it comes to renewal, it would be the responsibility of the Commission to advertise the renewals, rather than on the applicant or the objector. The amendment to Clause 19 is the parallel provision for the procedure to be adopted for Operator Licences. These two sets of procedures ie for Road Service Licences and Operator Licences although they follow exactly the same pattern it is the legal opinion that they must be kept separate in the Ordinance for the sake of clarity. I asked, Mr Speaker, whether we could just put one procedure to encompass all Licences and the advise was that it would be possible if we had had time to draft a completely new Traffic Ordinance. However as the Traffic Ordinance is drafted in order to make sure, for the sake of clarity, that we relate the procedure to that particular Licence, we have to have the same procedure twice in the Ordinance. I hope this clarifies as far as possible the intended amendments as well as the general principle of the Bill. I commend the Bill to the House Mr Speaker.

MR SPEAKER:

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

HON M K FEATHERSTONE:

Thank you Mr Speaker, we are basically in favour of this Bill as it is moving in line with the EEC Regulations. There is one point that does worry us to some extent. This is the need to licence motor vehicles with an engine capacity of less than 50cc. We understand fully the reasoning that has been put forward that it is useful to be able to have a licence number in the case of an accident and in the case of a vehicle that has been stolen. I wonder whether the Hon Minister has available any details of the number of vehicles that have been stolen over recent months. We will support this but we would hope that the licensing of such a motor vehicle will not involve any charge

whatsoever, or if it does involve a charge, it should be a very nominal charge. The idea put into practice by the last Government was, of course, to enable as many people as possible to use mopeds in town and avoid the use of cars as far as possible and we would not like anything to happen which would preclude this possibility being enhanced. As regards the amendments we feel it is a little reprehensible to bring such a whack of amendments at such a late stage in the meeting. However we are able to understand them and we will go along with them and we will support the Bill.

HON P C MONTEGRIFFO:

Mr Speaker I would like to make one point which really is a point which will arise exactly in the same fashion in respect of the Companies (Amendment) Bill. Whilst going through the Bill I noticed that one of the purposes of the amendment is to use a new Subclause (e) in Section 57 of the Principle Ordinance and inter alia what that subclause does is to allow the Governor, effectively through subsidiary legislation, to implement the legislation and if that is not defined, the legislation of the European Economic Community concerned with Road Transport. I will just express the view, Mr Speaker, and I will make the same point again at the time of the Companies (Amendment) Bill that I believe that that is unconstitutional. You cannot have unless you define it, and I agree with the AttorneyGeneral's views, unless you define it as legislation of the EEC but if it is a legislation that requires a change of the Ordinance, a substantive change, of the Ordinance then that cannot be undertaken by way regulations as a matter of constitutional practice. A regulation cannot change a substantive part of an Ordinance. If an Ordinance says "you have power to change something by regulation and the authority stems from that Ordinance fair enough, but if there is a piece of external legislation which has priority over the Ordinance from the EEC and the effect of that legislation is to fundamentally change what the Ordinance does, I think, that is not allowed to be done by regulation since it would be unconstitutional for regulations to be made to give effect to that. One practical way out of that problem, if the Government were to accept it, is that simply in legislating any EEC rules the view would have to be taken as to whether those rules actually fundamentally change the Ordinance or just rules of administration. But I really believe that if one looks at the amendments to the Companies Ordinance one cannot just by Regulation, Mr Speaker, give effect to EEC legislation which fundamentally overrules parts of a principle act or a principle ordinance. Certainly it is a view that I have and it is a matter for the Attorney-General to determine, but that is my view, Mr Speaker.

HON A J CANEPA:

Mr Speaker, I just have one point that I want to deal with and that is to underline and stress the point that my

Honourable friend Mr Featherstone has made with regard to mopeds and I think I should declare an interest since I do use one. I would also like the Honourable Minister if he has available to give us some indication also as to how serious the problem is regarding accidents. I mean is it that there has just been very few cases or is it a serious matter? Again if motor-cycles are stolen I can understand the point that if they have a license plate it is a greater deterrent and it becomes more difficult for instance to take it across the border than otherwise. Without a license plate the Police only have a chassis number to go by and we understand these points. But I would seek assurances from the Honourable Minister regarding the level of Road Tax and I hope that the Government are not going to use this as a revenue raising measure. The road tax should really be of a nominal nature and cover nothing more than the administrative costs.

HON J C PEREZ:

That might be more expensive, Mr Speaker.

HON A J CANEPA:

Well, Mr Speaker, then less. But I would seriously commend to the Minister as a user of a moped that we must do everything possible to encourage their use. A moped cannot go very fast, Mr Speaker. In fact a bicycle can be ridden at a faster speed than certainly my moped and therefore although there are certain dangers in using motor-cycles as compared to motor cars we obviously in the congested traffic circumstances of Gibraltar want to encourage people to use motor-cycles. If they have to use motor-cycles then the more of them that use mopeds the better because if they are involved in an accident with somebody else, with a pedestrian, the consequences are likely to be less. If they themselves are involved in an accident with another type of motor vehicle, like a car or a lorry where obviously the motorcyclist stands to lose very very strongly, the fact that a moped would only be doing a speed of 25 or 30 miles per hour is a factor that can to a very considerable extent attenuate the amount of injury suffered in an accident, so I hope that the Minister can reassure us in this respect, because it is an important point of principle.

HON ATTORNEY-GENERAL:

Mr Speaker, may I endeavour to deal with the question of concern that has been expressed by the Honourable Mr Montegriffo. I am not quite sure that I understand exactly what he is endeavouring to get at because I cannot see where any constitutional point can possibly arise, Mr Speaker. It is true of course that anything which is purported to be done by subsidiary legislation must not be inconsistent with anything in the principle legislation. It is nothing to do with the Constitution, Mr Speaker, it is a provision in the Interpretation and General Clauses Ordinance.

HON P C MONTEGRIFFO:

Mr Speaker, will the Honourable Member give way? The usual authority from which subsidiary legislation derives is the particular Ordinance or UK Act. The normal thing one sees, Mr Speaker, is a very specific provision, in an Act saying "for the purposes of regulating how a licence works, how it should be issued, how the fees should be calculated, how a license will be cancelled, the Secretary of State or the Governor in the case of Gibraltar shall make regulations. The concept of simply saying you have an Ordinance which is passed and then there is a clause at the end that says "but any amendment to this Ordinance can be undertaken by way of Regulation would be completely contrary to constitutional practice. Mr Speaker, we pass an Ordinance today and the final clause says "any amendment to this Ordinance can take place simply by Regulation", that is not the constitutional practice. In the case we have before us, Mr Speaker, what we are doing is allowing by Regulation the incorporation of EEC legislation in relation to Transport and that can give rise, potentially, to fundamental changes throughout the whole Ordinance. It could make the whole Ordinance redundant because it could actually say tomorrow "all Regulations previously issued by the Traffic Authorities are now repealed and Directive No.1 of 1991 applies". If that is the case, there would not be authority Mr Speaker, and I think it is important to clarify the position. There would not be authority under this Ordinance for those Rules to be implemented in that way. I am prepared to accept, and I will be voting in favour of the legislation if Government is careful in being able to differentiate between what is in the Regulation coming out from the EEC and which does not fundamentally affect the basis of the Ordinance. It would not however have the ability just to change the Ordinance lock, stock and barrel if an EEC Directive comes out. To that extent I think the wording is unfortunate. That is the only point that I am making, Mr Speaker. I think it is against constitutional practice in that sense.

HON ATTORNEY-GENERAL:

Yes, Mr Speaker, I am pleased I did give way to the Honourable Member, because I understand now the point that he is endeavouring to make. I however do not have the slightest hesitation with great respect, in disagreeing with it. The Hon Member is I am afraid with respect, quite wrong. The tests for the validity of subsidiary legislation, Mr Speaker, are well known. Firstly subsidiary legislation is valid only if it is made strictly with the enabling provision contained in the Ordinance under which it is to be made. That is first and foremost the reason for the amendment to this Ordinance. To include a specific Enabling Provision to permit Government by subsidiary legislation to implement the relevant EEC obligations on traffic matters as they arise from time to time. Secondly, Mr Speaker, subsidiary legislation has to be in no way inconsistent with the provisions of any Ordinance, otherwise

if it is it would be declared invalid, not by reason of any constitutional provision either expressed or constitutional practice provision, but because of the provisions of the Interpretation and General Clauses Ordinance. If however, Mr Speaker, any piece of local legislation happens to be inconsistent with EEC legislation then of course it is well known that EEC legislation prevails. Lastly a most important aspect and certainly not least, all legislation whether it is primary or of subsidiary nature must not be unconstitutional in any way. When I say unconstitutional, Mr Speaker, I am not concerned with constitutional practice as it may arise or appear internationally. I am concerned with the expressed provisions contained in the Gibraltar Constitution Order of 1969. Now Mr Speaker, for example, the Income Tax Ordinance, as the Honourable member will recall, has been amended to provide for Government to make all sorts of rules and that has been done already by subsidiary legislation and furthermore to enable Government to pass subsidiary legislation and amend any provisions in the Income Tax Ordinance which need to be amended by reason of the passing of such subsidiary legislation and without the necessity of having to come back to the House and seek the approval of the House to any such amendment. We are going to have the same thing very shortly in relation to the Companies (Amendment) Bill which I will have the honour to present to the House very shortly indeed. But, Mr Speaker, it is perfectly lawful in my respectful view to insert an Enabling Provision into an Ordinance saying that it shall be lawful for the Governor or the person on whom the Statutory Power to whom the subsidiary legislation is conferred to act by the process of subsidiary legislation in implementing the EEC provisions and obligations which Gibraltar is subject to from time to time. That is not seen to be ultra vires to the provisions of the Ordinance and it is certainly in my respectful view not unconstitutional in any way whatsoever.

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 leave the legal points to the Honourable Attorney-General. However on the point raised by both the Leader of the Opposition and the Honourable Mr Featherstone I can guarantee Honourable Members that no hasty decision has been taken and I will go over the history of what has happened since 1988. Mr Speaker, when I was the Chairman of the Traffic Commission, before the introduction of an independent Chairman, I suggested that the necessity of not wearing helmets should be applied to motorcycles of up to 80cc because we thought that it would encourage more people to use motorbikes. I felt that in the case of people who had to go up hills, the 50cc motorbike might not be sufficient. I was outvoted in the

Traffic Commission but that does not mean that the Government cannot pass the necessary legislation. I however thought that I should continue to take the recommendations of the Commission on board and the view of the Police, as far as safety is concerned, the Police representative in the Commission would wish everyone to wear a helmet for safety's sake and he would probably also say that a pedestrian should wear a helmet when going out. However my theory, and it is a personal one, is that within Gibraltar the use of motor-cycles other than very high powered ones does not necessitate the wearing of a helmet but between my point of view which is a rather radical one and the point of view expressed by that particular police officer, lies the truth. There is evidence of people coming to see me saying that they have had an accident with a moped, an accident with someone who has not been able to be identified. In fact, in one case someone has been maimed for life. There is also the stolen mopeds taken across the frontier and the Spanish Customs have been approached to try and get their help in stopping these stolen mopeds going across. We were informed, in fact, that they were going to restrict their entry into Spain anyway because they needed to be registered in Spain. So really those persons using mopeds and going to La Linea without registration have been using the bikes illegally in another part of the EEC. EEC requirements are that motorbikes travelling between territories should be registered. Given that evidence, and although I have not got figures myself, there is evidence of a substantial amount of mopeds having changed hands illegally over the past year. Also given that individuals have come to see me proving the point that the Police were making in the Commission about certain accidents, although reluctant, I have been forced to recognise that there is a case to be made and that we need to register for the sake of safety more than anything else. I take the point of view of Honourable Members opposite that the charge should try and cover the administrative costs but I still think that it will be attractive for people buying mopeds. We certainly wish to encourage that, both in the Commission and myself personally. Members will have noticed that there are motor-cycle parking bays everywhere in town now and basically to encourage more people to do just that. If everybody that had a motor-cycle today were to use a car to come to work then the traffic problem would be more than horrendous. It is horrendous today but it would be twice as big a problem if those measures had not been introduced at the time that they were.

HON LT-COL E M BRITTO:

Mr Speaker, if the Minister will give way. I would just like to take up the point that he made on the question of extending the 50ccs to 80ccs from not wearing helmets and I would urge the Minister to tread carefully on this because one.....

HON J C PEREZ:

No, Mr Speaker, the Hon Col Britto has misunderstood me. I said that I had been outvoted. It was a personal opinion of mine and I was outvoted and it is not going to happen. I have just told Honourable Members opposite that I have been resisting the question of registering but the evidence has been such that I had to do something about it.

HON LT-COL E M BRITTO:

I got the impression, Mr Speaker, that the Minister had said that the answer lay somewhere between the policeman's solution and his own radical one. I would just like, for the record, to say that once you get to 80ccs there are certain types of motor-cycles that are racing motor-bike types that are used just across the border in racing and those most certainly would require to be used with helmets.

HON J C PEREZ:

That, Mr Speaker, may be so but I still find that the Honourable Member's position discriminates against some people. Because a 50cc would not get me up Rock Hotel Hill so I would not be able to use a motorbike without a helmet!

HON LT-COL E M BRITTO:

The point that I am making, Mr Speaker, is that certain types of scooter type mopeds would be OK but not the faster types. So therefore the Hon Minister would be alright.

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 House recessed at 5.00 pm.

The House resumed at 5.20 pm.

#### THE COMPANIES (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of this short and simple Bill is, I hope, apparent from the Explanatory Memorandum. I am told that there are considerable number of proposals for EEC Directives affecting Company Legislation with which Gibraltar will have to comply. And it is considered desirable to do so speedily and effectively as and when the obligations arise and the Enabling Provisions which the new Section 315 will bring into the Ordinance will provide the necessary machinery for this to be achieved. As with the Income Tax Ordinance, Mr Speaker, subsidiary legislation which will be made pursuant to those Enabling Powers will be able to make provision for the repeal or modification of provisions contained in the Ordinance in the circumstances specified in sub-section 2 of the new Section 315. The existing Directives which need to be implemented urgently are I understand those principally dealing with the format of the regulation of companies. Company law, as members are aware, is a continually developing field, it would be of considerable assistance to Government to be able to implement the EEC obligations by use of these Enabling Provisions as and when the necessity arises in the future. Mr Speaker, in anticipation of at least the possibility of the Honourable Mr Montegriffo making the same point as he did on the last Bill I can say now that my answer will be precisely the same. 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 LT-COL E M BRITTO:

Mr Speaker, we have reservations about this Bill. The Attorney-General has said it is simple and to the point in as far as the space it takes on a piece of paper but the scope of the Bill is extremely wide and it gives the Government once more the ability to do something that we have consistently opposed and that is to legislate by Regulation. Not only are we worried about the extent of the powers and the ability to, in fact, modify or repeal whole sections of the Ordinance. We would also like an indication from the Attorney-General as to whether the intention is to use these powers in the case of mandatory Directives from the EEC in order to streamline the legislation and to make things easier or whether the intention is to use them in all Directives, be they mandatory or otherwise, that emanate from the EEC.

HON P C MONTEGRIFFO:

I will be voting against this Bill, Mr Speaker. Putting aside the difference we have on constitutional practice

or otherwise, I have consistently reiterated in this House that I am entirely in favour of giving the Government flexibility when it comes to the provision of regulations when it comes to the provision of specific fiscal arrangements and that particular transactions may require in order for the Government can derive the benefits for Gibraltar from in having a high degree of manoeuvre. I think that doing that implies a certain loss of sovereignty of the House, and, I think, it is a loss of sovereignty which in a global context is to the benefit to Gibraltar and therefore one is prepared to pay the price. However, I think this Bill goes much much further. This Bill basically says that anything and everything that comes out of the EEC, affecting and touching the question of company law, which the Attorney-General rightly points out is a constantly moving thing, shall be implementable in Gibraltar simply by Government Regulation. That is bad parliamentary practice in our view. It is bad practice in a democracy and if there is a fundamental change to company law, it is legitimate that it should come to this House. I do not think that changes of this nature, the flexibility that the Government is seeking is necessary in terms of addressing a particular market or a particular industry or a particular certain situation that could arise at short notice and which the Government has to react to quickly. The only possible import for these rules, the only possible reason, is that it is more convenient for the Government to expeditiously deal with the backlog of Directives which it faces. Now purely from the point of view of what is expeditious and purely from the point of view of what is convenient I am not prepared to go along with that because I do not think it is a sufficiently strong reason. I can understand that the Government is happier to do it this way but I do not think that the wholesale absolving of this House of its responsibility for looking at EEC Directives or forming a view on them, for debating them, for seeing the implications for the Finance Centre, are justified by simple convenience and because of that I will be voting against.

HON CHIEF MINISTER:

Mr Speaker, the Honourable Member is of course perfectly right and he is of course perfectly entitled not to agree. The situation as Members on the opposite side of the House who have been in Government know is that there has been a long standing difference of view, shall we say, between Gibraltar and London as to the changes that were required to Company Law for a very long time in respect of our need to give effect in Gibraltar to Community obligations, some of which we should have done when we joined in 1973. That, Mr Speaker, is how far back we are in this particular sphere. The need to respond quickly is now imperative. We are in a situation where in the next twenty four months the test, the crunch, of whether a Gibraltar Company is a European Community Company, as defined in Community Law can no longer be avoided. With the creation of the Single European Market, it makes a big difference to Gibraltar

whether a Gibraltar registered and incorporated company is a European Community Company, as defined in Community Law, or is not. In fact in marketing Gibraltar, we are marketing it on the basis that it is and in saying why Gibraltar is better as a place from which to do business than for example Jersey, Guernsey or the Isle of Man we are making the point that they even if de facto their legislation is already closer to Community Law than ours that does not make them Community Companies. The position is that you have to be considered to be part of the territories or the European Community in order to be able to incorporate Community Companies, but you have to incorporate Community Companies meeting the minimum criteria laid down in Community Law. If you incorporate Companies with Community criteria outside the boundaries of the Community that does not make you a Community Company. So we believe that we have an important marketing advantage in this area. We have been able to persuade the United Kingdom over the last twelve months that in fact what was originally considered to be essential and which was basically the entire scrapping of the Companies Ordinance that we have and the virtual replacement wholesale of the UK interpretation of Community Law is not necessary. Members opposite who have been in Government will know that somebody was contracted at vast expense in London to be an additional Law Draftsman and produce a new Companies Act for Gibraltar which when we came in we scrapped without bringing it to the House.

HON A J CANEPA:

We were not paying him.

HON CHIEF MINISTER:

We would not have contracted him if we had been. That is the difference.

HON A J CANEPA:

I would have been the Chief Minister if we had been elected and I had been involved with these matters during the last twelve months and I became aware fully, there were some indications beforehand, but I became aware in a very dramatic way that that was not in our interest. London would pay for the lady to draft the legislation and she could have drafted twenty seven or twenty eight other pieces of legislation including one allowing Spaniards to use the Airport without going through Customs and Immigration but that did not mean that we would have brought the legislation to the House.

HON CHIEF MINISTER:

Well, we also discovered it, Mr Speaker, after April 1988, although I recognise in fact that the Honourable Leader of the Opposition's sentiments had already surfaced, I think, on more than one occasion when he contributed to

the debate on the matter in the House as a view that he had personally. But anyway when we came in we were decidedly unhappy about the direction this was taking and we stopped it and we have been able to persuade them that it is possible to take the existing Companies Act of Gibraltar into the Community with minor revisions where we are convinced we can protect Gibraltar's position and we honestly feel that the only way that we can do that in the next twenty four months is by taking what is in fact additional powers for the Government to be able to come out with occasional amendments by Regulation which will bring in parts of Community Law. Let me say that in doing that we will of course be consulting thoroughly the people in the business community who could be considerably affected by any such moves. Mr Speaker, seeing that it is by Regulation and since they are published, the Government will not be adverse to take into account any views from Members of the House. I recognise that the philosophical point made is accurate but it is a policy decision that we have taken for the reasons that I have explained.

HON A J CANEPA:

Obviously, Mr Speaker, we have to accept the position of the Government because they are able to use their majority to get the measure through. We however have argued, in the past, that there is in reality no problem about the Government bringing legislation to this House and getting it through quickly. The only problem might be during the summer recess and if ever the Government were to be in an awkward position regarding the need to bring legislation to this House as a matter of urgency then I can assure the Honourable the Chief Minister that we would make ourselves available in July, in August or at any time of the summer to come here to the House for that purpose. One could not find better proof of what I am saying than what has happened in this meeting because this is an excellent example of what I am talking about. Two weeks ago, Mr Speaker, the Government was able to bring fifteen Bills to the House and now it has brought another eight and between this evening and tomorrow twenty-two or twenty-three Bills are going to go through. Eight of them nine days after being published and the others two weeks from the date of being published. Mr Speaker, one of the things that we learnt from our visit to the Isle of Man, where there are two Houses, and where they have a very relaxed way and they have to go to Tynwald Hill, in front of all and sundry to pass the legislation. Well there it takes a year. That does not happen here and therefore takes away validity from the point that the Chief Minister is making. Any Regulations which are going to be enacted as a result of the Government getting these powers are going to take very little less time in reality to be enacted than if the legislation was brought to the House and debated here before it becomes law. It is a matter of principle and we cannot go along with the Chief Minister. We will therefore be voting against for the reasons I have just stated although we support the Government in everything

else that they are trying to do on this matter.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Thank you Mr Speaker. I am not going to say anything in response to the points made by the Honourable Mr Montegriffo or the Honourable Mr Canepa except to say that this Government has made well known its wish to implement its policies by subsidiary legislation wherever that is possible and the Honourable Members on the opposite side of the House have made well known their opposition to that. It is not for me to say whether that is a bad policy or a good policy, it is only for me to say that I am quite satisfied of what Government is seeking to do by subsidiary legislation and it is perfectly lawful. In response to the Honourable Col Britto's observations Mr Speaker, yes it is, as I understand, Government's policy to use this in every provision assuming this Bill becomes an Ordinance. Wherever it is feasible and possible to do so however but each and every Directive which is made operative by the EEC, Mr Speaker, and which applies to the United Kingdom and other Member States does not automatically apply to Gibraltar. It first has to be ascertained whether it is capable of being applied to Gibraltar and if so to what extent it is going to be implemented and how. But where a Directive clearly does have application to Gibraltar Mr Speaker, it is as I understand Government's intention to use this subsidiary legislation method for the purpose of implementing its obligations. I trust that answers the questions put by the Honourable Col Britto, I will give way if necessary before I sit down if there is any other point the Hon Member wishes to raise.

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 K W Harris  
The Hon P J Brooke



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 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 CRIMINAL PROCEDURE (AMENDMENT) (NO.2) ORDINANCE 1990

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to make provision in Gibraltar for the new offence of absconding from bail which by reason of the Bail Act 1976 has existed in England and Wales for almost fourteen years. While the Bill contains only two Clauses, Clause 2 is lengthy and I think for the benefit of the House I will need to go through it in some detail if members will bear with me. Sir, the new prospective Section 57A imposes a specific statutory duty upon any person who has been granted bail in criminal proceedings to surrender to custody and in accordance with the provisions of the Ordinance at the time and place appointed for that purpose. This will be either at the Court House or at the Police Station. The new prospective Section 57B creates the offence of absconding by a person who has been released on bail which means that prima facie he commits an offence if he fails to present himself at the Police Station or at the Court as the case may be on the date and time appointed for him to do so. The Section provides that it will be an offence for a person who fails to surrender but has reasonable cause for his failure. The onus of establishing reasonable cause is upon him. Obvious circumstances, Mr Speaker, would be

illness or an accident when he was on his way to the Police Station or to the Court to surrender or indeed any circumstances which really are beyond his control. It will also be an offence to fail to surrender to custody as soon as reasonably practicable after absence through reasonable cause has ceased to exist. The Magistrates' Court will have power to sentence an offender guilty of such an offence or alternatively to commit him for sentence by the Supreme Court if he is to be committed to the Supreme Court to be dealt with for another offence or even if that is not the case, he can still be committed for sentence if the Magistrates' Court thinks its powers of punishment are insufficient having regard to all relevant circumstances. The new Section 57C deals with the liability to arrest of a person who absconds from bail or breaks his conditions of bail and imposes a duty upon the Police when they arrest a person in such circumstances to bring him up before the Magistrates' Court as soon as practicable and in any event within twenty-four hours after his arrest. Exclusions are prescribed for Sundays and certain public holidays. The Magistrates Court has powers in such circumstances either to remand the defendant in custody, to release him on bail again subject to the same conditions or to release him on bail with different conditions. The final new prospective Section, Mr Speaker, Section 57D makes it an offence to indemnify a person who may incur financial liability as a consequence of standing surety for someone who is given bail in criminal proceedings. Mr Speaker, the Bill has the support of the members of the Judiciary and I hope will have the support of members on both sides of this House. Sir, it may be prudent for me to say that I have personally been involved as Prosecuting Counsel in a number of cases where defendants have not appeared in answer to their bail. I can remember one particular case when on the day the defendant's trial was due to commence at the Supreme Court, the defendant did not appear. The entire number of jurors and panel for that session were present, Counsel representing other defendants jointly charged, were also present and a number of witnesses had been brought to Gibraltar at the expense of Government from elsewhere. Some months later the defendant surrendered himself to the custody of the Police in Gibraltar and was subsequently tried and convicted of the offence with which he was charged. The Court understandably expressed concern at not being able to deal additionally with the defendant for his failure to answer his bail and the consequent inconvenience of so many people and of course Sir, the considerable waste of expenditure which had been incurred. This Bill will enable the Court to punish the defendant in such circumstances whether or not he is proceeded against or convicted of the offence or alleged offence for which he was given bail in the first instance. Sir, the Act has proved to be a success in England since it came into operation, now I have every confidence that the provisions contained in this Bill if enacted will be a success in Gibraltar also. Mr Speaker, I have not given formal written notice but I have observed that there is a spelling mistake in the new Section 57B(2)B of the Bill and I will be moving

at Committee Stage to seek to correct that spelling mistake and the Financial and Development Secretary has just pointed out to me another minor printing error which I will also be seeking to amend at Committee Stage. They are extremely minor errors, Mr Speaker, and I anticipate no difficulty about that. 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 K B ANTHONY:

Mr Speaker, although I accept fully the principles of this Bill, I think it does cover up most of the loopholes, nevertheless there is one phrase in the Explanatory Memorandum which I am not too happy about. The Bill provides powers for the arrest without warrant of a person who appears to be likely to fail to surrender to bail. Now this is a potential danger as I see it because if you are going to arrest a person without any warrant on the supposition that he might jump bail it comes back on to the clarification of what is meant in 47C subparagraph 5 reasonable grounds. Perhaps the Attorney-General could clarify what is meant by that. I am not suggesting in any way that there is any abuse by any of our police constables but certainly in the UK it quite easily could be seized upon because the police in the UK perhaps are not held in such high standing in that community. So perhaps if the Attorney-General could just clarify this for my satisfaction. Apart from that the general terms of this Bill, Mr Speaker, are quite satisfactory to the AACR Opposition.

HON P C MONTEGRIFFO:

Mr Speaker, just to say that my point of view is that this Bill is long overdue and perhaps the Attorney General could indicate whether it is just a matter of his own initiative, unrelated to circumstances other than perhaps his own experience, that he has related to us, which sees this Bill coming before us or whether the Judiciary themselves have expressed some need for this. Certainly it seems Mr Speaker quite extraordinary that with the problems that have been attached to bail generally in Gibraltar in a general context and the fact that people that have been given bail often have not turned up to Court in differing situations that we have had to wait this long for this type of legislation to come to this House. Perhaps the Attorney-General can indicate whether this is a matter of his own initiative entirely or does it arise out of a series of examples and not just the isolated example that he mentioned or if, in fact, the Judiciary itself has felt that a review of the provisions relating to bail were required.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Thank you Mr Speaker. Sir, if I can deal firstly with the point put by the Honourable Mr Anthony. In obvious cases, Mr Speaker, can I say first of all that the provision which troubles the Honourable Member does exist in the Bail Act of 1976. So police officers for the last fourteen years or thereabouts, in England and Wales, to which the Act applies under the Bail Act of 1976 have had the same power which concerns the Honourable Member by reason of its prospective introduction into Gibraltar. If for example, Mr Speaker, a person who had been given bail and bail, of course, if not given expressly on condition that the person to whom bail is given shall not leave the jurisdiction and it is deemed to be implied unless the Court says specifically "well as you live in Spain or as you work in Spain, it is alright for you to go back and forwards and we trust you to appear as and when you are supposed to do so". We all know in this House, Mr Speaker, that there have been occasions when that trust enjoyed by defendants in those circumstances has been violated in many different ways, however that is besides the point. Dealing specifically with the Honourable Member's point, a defendant who is due to appear in Court the following day, was seen in Marina Bay filling up his vessel and setting sail out of Gibraltar territorial waters or about to leave Gibraltar territorial waters in circumstances where it was pretty obvious he did not intend to return ie he was on a one way ticket, so to speak, or if it could be established that on a Monday morning he was booked on a one way ticket on the 8 o'clock flight from Gibraltar and he was supposed to be in the Magistrates Court at 10 o'clock then it would be perfectly lawful in my respectful view, Mr Speaker, for police officers to arrest him in those circumstances and to say to justify his arrest "I have reasonable cause to believe that this defendant was about to break the conditions on which bail had been granted to him". In such cases they need not have to rely on going to a Magistrates and getting a warrant in time probably to stop him from leaving the jurisdiction and absconding from bail. As far as the Honourable Mr Montegriffo's points are concerned I am grateful for his observations, Mr Speaker. The circumstances giving raise to the introduction of the Bill to this House involve a number of considerations. I have always been in favour of this, Mr Speaker, I, if you like grew up in England and I remember very well in 1976 when I was in practice there the Bail Act coming into operation and I thought what a very good idea it was and I was rather surprised when I came to Gibraltar to see that it was not in force here and there were no plans to bring it into force. My Learned predecessor did not support my views that it would be a good thing for Gibraltar and that was so notwithstanding the fact that the case to which I have made specific reference took place at the time when I held my former position and my Learned predecessor was in Office then. But because of that and my own feelings about the matter, Mr Speaker, and because of the instances of other cases where expense of a much lesser nature than

the specific case to which I have made reference has also highlighted the necessity for this Bill. I took it upon myself to approach the members of the Judiciary in Gibraltar and seek their views and each and every one of the judges in the Stipendiary Magistrates in Gibraltar supported my proposition that it could be a very good thing to bring these provisions into operation and therefore, Mr Speaker, it is my pleasure to have presented this Bill and to again commend it to the House.

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 BUSINESS NAMES REGISTRATION (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Government believes that the streamlining and official operation of all processes connected with the Business Administration in Gibraltar is vital to the future development of the Finance Centre and commercial activities generally. Company Registration and Business Names Registration are both important aspects of control requirements. Whilst these functions have traditionally been attached to the operation of the Courts, this is considered a more business orientated style of management, maybe more appropriate. Indeed a number of different approaches in this respect have already been tried in recent years in other Jurisdictions. Consideration is now being given to appropriate options here. The flexibility within the laws to adapt new styles of operation already exists in the case of Company Registration. Since in many respects it goes hand in hand with Company Registration it is proposed to extend similar flexibility to Business Names Registration by opening up the possibility of someone other than the Registrar of the Supreme Court carrying out the functions. At the same time the fines

provided in the Ordinance for offences against the provisions of the Ordinance need to be reviewed in order to reinforce their effectiveness. In Clause 3, it is proposed to increase from £5 to £250 the daily fine for failure without reasonable excuse to provide the statements required in the Ordinance. In Clause 4, fines relating to false statements, failure to respond to requests for further information, failure to display the certificate of registration or to notify the ceasing of a business are increased from £20 to £1,000. In Clause 5, the fine for failure to indicate on various trade material and correspondence produced by the business, the names of those involved is increased from £5 to £250. 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:

Just one point Mr Speaker, we are somewhat concerned about the scale of the increases in respect to the fines under the Ordinance. We notice that they are being multiplied by fifty, in fact, in all cases and the Honourable mover of the Bill has not given any reasons to justify the scale of the increase. It seems to us at first sight somewhat draconian to move from a situation where a fine is a maximum of £20 to £1,000. There may be very good reason for doing so. I would invite the Honourable mover when he exercises his right to reply or some other Minister on the Government side to try to explain to us and to try to justify these increases.

HON P C MONTEGRIFFO:

Again, Mr Speaker, I shall be voting against not because I have any difficulty with the concept of commercialising activities presently run by Government or run in a Public Sector or in any other environment but because this is another example of what is quite common now and which is that the Government seeks the power before it tells us what it is going to use that power for. If the Government came to this House and said "we are radically reassessing the position of the Registrar of the Supreme Court and we are taking away certain of his functions and the question of Business Names Registration is just currently one of its activities which is going to be now dealt with in this Agency or in this particular way with the following structures, with the following methodology and with the following fee structure, I for one would say I can make an assessment of how the new system is going to work. If the new system works more commercially in the interests of Gibraltar and provides a more efficient service I have no difficulty in supporting it. What I cannot do, Mr Speaker, is say yes to a Bill which takes away the power to register names and to keep the register from the present Registrar of the Supreme Court, well at least potentially

it does, the Registrar shall be the person appointed by the Government for that purpose, my understanding if the Financial Secretary is to be taken in his word is that the Government intends to introduce new methods for the keeping of the necessary particulars under this Ordinance. New methods that are more commercial and which are more streamlined and with which I may well find myself in agreement, but what I cannot do, Mr Speaker, and I think it is unreasonable for this House to be expected to do is to say "yes you have the power now to do a job". I give you the power or at least I agree to you taking the power more properly but you have not told us precisely how this is going to work. If the Government, Mr Speaker, actually has a plan as I am sure it must have to streamline Company Registrations, Business Names Registrations and such functions in a way as for example in Companies House in the UK which is a largely commercial enterprise and run it in that sort of fashion, then I think it is a matter to be debated at the time of the legislation which is necessary to give effect to that sort of change. Mr Speaker, we have a philosophical difference of view and I think this House is here to debate the realities of Government policy and to form a view on whether any particular matter is in the interest of Gibraltar or not. However to come to this House and to seek powers that will change the present rules in order that the Government can do what it wants is, I think, not the function of this House. What the Government is really doing is seeking our vote in order to change things without explanation and it is with a sense of regret almost that I have to say no to this because I do not really know what I have to say yes to.

HON CHIEF MINISTER:

Mr Speaker, with respect to the Honourable member opposite I must say that he is talking total nonsense. The Government has a policy and the Opposition is entitled to differ from that policy. Indeed it is to be expected that they should do so otherwise they are in the wrong party. But to suggest that the function of Parliament is to decide in what building a Company Registry should be sited which is what we are changing, because what we are doing is changing the location. We have very antiquated laws and I cannot imagine that if you have a situation where you want to change the Company Registry from the Court House which is two yards down the road from No.6 Convent Place that you actually have to go to Parliament and pass legislation to be able to do it.

HON P C MONTEGRIFFO:

If the Chief Minister will give way? I do not think I am suggesting that Mr Speaker, unless I have made myself very badly understood. What I am referring to is to what I think the Financial Secretary has clearly indicated. I do not care a damn, Mr Speaker, from what building functions are conducted from but what I do care is who conducts those functions and in what way. That is what

I understood from the Financial Secretary. The Financial and Development Secretary said that the present Registrar of the Supreme Court who for donkey years has done this is probably not going to do it in the future and that the systems which have been used may change so that it is run on more commercial lines. In other words the fee structure indicates that that operation, and the agency, for want of a better word, will be self-financing or presumably will to some extent pay part of its way. All I am saying, Mr Speaker, is that if that is the Government's intention who is it that they have in mind will fulfil this function? Whether it will be, for example, part of the Financial Services Commission or whether it will be a completely new structure? I think one can look at the Bill in that context, Mr Speaker. But in the absence of an explanation one is entitled to ask how it is going to work in practice. I do not care about the building.

HON CHIEF MINISTER:

I have given way to the Honourable Member in order that I can answer his question. He does get carried away when he stands up to answer a question and goes into a long debate all by himself. If the Hon Member reads the Bill independent of the additional information which the Financial and Development Secretary may have given, because, in fact, to change the structures we do not need to bring any legislation at all. Because if we wanted to withdraw this Bill today, Mr Speaker, and change the structure, the methods, the methodology and all that, which is an administrative decision, we can always do that. So we are not taking powers to do that. That is the point that he made when he stood up. If the Financial Secretary had given an indication that we were looking at more efficient ways of organising procedures then we should come here and explain which are the more efficient ways of organising it so that we can convince him and then he would vote in favour. But in fact we do not need to do that. The Bill says that "independent of whether we use computers or quill pens, the Bill says that at the moment there is a place where it has to happen and there is a person who has to do it. That is what the Bill says, Mr Speaker. What we are saying is the place and the person are really not matters of fundamental policy. That is what I was saying before he interrupted me, Mr Speaker, because when I stood up I said the Bill in the Explanatory Memorandum states the location where the Registry may be which can be in the Court House at the moment and no where else. Now if we have a situation where everytime we wanted to move the location of the Registry we had to pass a new law then that is not a very efficient way of running things. The Hon Member stands up and interrupts me to say that he does not care where the location is and that he is going by what the Honourable Financial and Development Secretary has said. Now, Mr Speaker, I bring him back to the location and now he says that yes the location. Well it may be that the Hon Member feels that the efficient way to govern is that if you want to change the location of the Company

Registry then you come to the House and debate whether it should be on the fifth floor of this building or at the bottom of Main Street in the ICC. I must say that if he ever gets into Government and, I think, that that is going to be a fairly remote possibility, he can then bring a Bill to the House saying that is what must be done. We have found a system, which has been there for a very long time and we have looked at it and we have decided that it is obviously totally out of date and it is not in keeping with an efficient way of managing things in Gibraltar. Because if tomorrow we decide that the Registry will be more conveniently be in the ICC we will then be able to do so without coming here and bringing legislation to do it. We think that if in the restructuring of the Civil Service, we should designate the Attorney-General, the Financial Secretary or the Administrative Secretary or somebody else to take on the Title of Registrar of Companies, because the work is done by a Clerk, then that is how we will do it. Now, the Hon Member thinks that that is a fundamental breach of the privileges of this House well fine he can vote against it and we will vote in favour and we will pass it and I will not explain it again because there are things we are doing in the same light and the same theme runs through them.

MR SPEAKER:

If there are no more contributions, I will call on the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, if I can respond first to the point about the scale of the increases. I am led to believe, Mr Speaker, that the fees that are currently in the Ordinance are based on the UK's scale of fees in the 1960's some 25 to 30 years ago and it was considered appropriate that a considerable increase was appropriate at the present time. As to the question of the reorganisation, I think, I have nothing more to add to what the Honourable the Chief Minister has said other than to point out that none of the flexibility that is built into this Bill in terms of the appointments of the person running the Registry or the siting of the Registry is not already there in respect of the Company Registry itself.

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 K W Harris  
The Hon P J Brooke

The following Honourable Member voted against:

The Hon P C Montegriffo

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 Dr R G Valarino

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 INSURANCE COMPANIES (AMENDMENT) ORDINANCE 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Financial Services and Financial Services Commission Ordinance as passed by the House last year provided an overall framework for the supervision of Financial Services in Gibraltar. It did not however seek to absorb Statutory provisions in existing Ordinances relating to supervision of Insurance Companies and Banking. It is considered likely that at some stage in the future a full intergration of all such legislation will become more appropriate and desirable. More immediately however it is necessary to ensure that the Insurance and Banking Ordinances can be operated consistently and fully complementary within the framework of the Financial Services Ordinance to enable the Commission and the Commissioner to begin their work. Many of the changes proposed to the Insurance Companies Ordinance are minor or consequential to this objective. I will just comment on the more material amendments. The Ordinance already provides sufficient flexibility for the Government to appoint the holder of the new post of Financial Services Commissioner as the

appropriate officer to be the Commissioner of Insurance. However the Ordinance refers to the Insurance Supervisor who supports the Commissioner as being a public officer which is clearly no longer appropriate since the person taking on the post will be part of the Commission's team and therefore independent from the Civil Service. Consequently it is proposed that the requirements for the Governor to appoint a public officer be removed. It is also proposed that the Insurance Advisory Committee provided for in the Ordinance be abolished. Clearly the Financial Services Commissioner will now take his advise and guidance from the new Commission and a separate Advisory Committee is no longer appropriate or necessary. The new provisions for licensing Insurance Companies contained in Clause 8 of the Bill introduce a requirement for the Commissioner to notify an applicant of an intention to refuse a licence and to offer an opportunity for the applicant to submit written or oral representation in response to the Commissioner's intended reasons for refusal. In Clause 19 a similar opportunity to make representations is proposed for licensees where the Commissioner proposes to issue a notice of prohibition on the undertaking of new business or to revoke or to revise a licence. In all cases, the purpose of these amendments is to make the format of the provisions as regards to licensing and granting of licences consistent with the style adopted in the Financial Services Ordinance. Other amendments contained in the Bill are largely consequential or of a more minor nature but again are intended to achieve consistency with the style and format of the Financial Services 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 LT COL E M BRITTO:

Mr Speaker, we will support this Bill. In principle we are totally in favour of any legislation that increases the strength of the Financial Services Ordinance and we think that this piece of legislation is essential to that end. During our recent visit to the Isle of Man we had occasion to meet with the Financial Services Commissioner, his Banking and Insurance Supervisors and we saw the very strong parallels there are with what we are trying to do here in Gibraltar. The main difference being that we are probably something like between seven and ten years behind them. So the sooner we get the legislation in place the better. One point I would like to make here, for the record, that was made to us quite strongly in the Isle of Man, two points really, the first one being that by far more business was turned away by the Isle of Man or stopped by the Financial Services Commission than was accepted and secondly and arising directly out of that that the motto or the rule of thumb was that they were using was that it was better to be safe than sorry. We have had our Barlow Clowes, they had their SIB experience

and both point to strong regulation. This was quite clearly stressed, that self-regulation does not work and they very very clearly pointed us towards strong regulation in order to keep the wolf away from the door. So in that sense Mr Speaker, we have no hesitation in supporting this Bill.

HON P C MONTEGRIFFO:

Mr Speaker, I do not have any hesitation either in supporting this Bill. I just want to take up one comment that Mr Britto has made on this side and despite the fact that we have a professional interest, Barlow Clowes has nothing to do with any deficiency in Gibraltar's regulatory system, that was a deficiency in the United Kingdom regulatory system and the fault lies with the Department of Trade and Industry in the UK and nobody else. It may have brought to the fore the thinking and it may have given impetus to the direction Gibraltar had already decided to take. But, I think, it would be wrong to equate, with respect, our position with Barlow Clowes with the real problems which the Isle of Man Government, as a Government, has with the Investment Bank on the Island. Having said that, Mr Speaker, I entirely welcome the Bill. It is obviously part and parcel of the general process of transfer of responsibility to the Commission. The only question I have actually which is the same question I will ask for the Bill which proposes to amend the Banking Ordinance is when is it intended that Clause 1 thereof would be activated. In other words is either the Financial Secretary or the Minister for Trade and Industry in a position to give this House an idea of when he believes the Commission could be operating and whether we are looking towards possibly the beginning of the next Budgetary Year or before then? I think the industry as a whole would welcome an indication, bearing in mind that this is now being put into place as well.

MR SPEAKER:

Well, if no other member wishes to speak, I will ask the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, can I thank Honourable members opposite for their support. If I can respond to both comments that were made in a fairly general way. I think they both lead to the process of the importance of getting the Financial Services Commission and the Commissioner operating as soon as possible and the Commissioner has been here now since the end of August/beginning of September. I am pleased to say that good progress has been made and he has already started recruiting. He has a substantial element of his team together and he has accommodation for the Commission arranged and I am very confident that quite soon, I do not want to be specific because obviously he has to form his own programme to put to us in this



respect, but I am very confident that quite soon within the next two to three months he will be taking up the powers that are set in here and he will begin operating effectively.

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 BANKING (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Banking 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, in many ways the amendments to the Banking Ordinance mirror those in the Insurance Companies Ordinance in both form and intent. I will therefore not labour the point by repeating the more general comments that I have already made in the context of the previous Bill. An additional point which is relevant to the Banking Ordinance is a need to address the appeal procedure arising from decisions of the Banking Commissioner. Clause 16 of the Bill before the House sets out rights of appeal because they should now be directed to the Supreme court rather than to the Governor in the first instance. This is in keeping with the provisions of the Financial Services Ordinance and in fact is already provided for in the case of the Insurance Companies Ordinance just dealt with by the House. Otherwise amendments proposed are very similar to those contained in the Insurance Companies 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 LT-COL E M BRITTO:

Mr Speaker, I will say that we support the Bill. Again like the previous one we have no hesitation in giving it our support and everything that I said in connection with the previous Bill applies its entirety to this Bill.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Simply Mr Speaker, to thank Honourable members for their support and I have nothing further to add.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Specified Offices (Salaries and Allowances) (Amendment) (No.2) Bill, 1990; The Imports and Exports (Amendment) (No.2) Bill, 1990; The Shop Hours (Amendment) Bill, 1990; The Fast Launches (Control)(Amendment) Bill, 1990; The Gibraltar Coinage (Amendment) Bill, 1990; The Gibraltar Coinage (ECU) Bill, 1990; The Housing (Special Powers) (Amendment) Bill, 1990; The Police (Amendment) (No.2) Bill, 1990; The Legal Aid and Assistance (Amendment) Bill, 1990; The Savings Bank (Amendment) Bill, 1990; The Auditors Registration (Amendment) Bill, 1990; The Income Tax (Amendment) (No.2) Bill, 1990; The Gaming Tax (Amendment) Bill, 1990; The Companies (Taxation and Concessions) (Amendment) Bill, 1990; The Endangered Species Bill, 1990; The Public Utility Undertakings (Amendment) (No.2) Bill, 1990; The Traffic (Amendment) (No.2) Bill, 1990; The Companies (Amendment) Bill, 1990; The Criminal Procedure (Amendment) (No.2) Bill, 1990; The Business Names Registration (Amendment) Bill, 1990; The Insurance Companies (Amendment) Bill, 1990; and The Banking (Amendment) Bill, 1990.

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

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT)  
BILL, 1990

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

Clause 2

HON CHIEF MINISTER:

I am supposed to be moving an amendment to the Specified Offices Bill, Mr Chairman. I beg to move Mr Speaker, that Clause 2 of the Bill be renumbered as Clause 3 and that a new Clause 2 is inserted. Mr Chairman, the purpose of this is, in fact, what I indicated at the First and Second Reading of the Bill and which Members on the opposite side said they supported and which means that now we will be able in future to adjust the scales of these Offices in line with the Annual Pay Review without having each time to introduce a new Bill.

HON A J CANEPA:

Yes, Mr Speaker, we are very glad to see that it appears as if on reconsideration of the matter it is possible to do what the Honourable the Attorney-General seemed to think was not possible. We therefore obviously invite him to explain to the Opposition how it is that he has changed his view and what advise he has given the Government.

HON J C PEREZ:

A very persuasive Chief Minister, Mr Speaker!

HON ATTORNEY-GENERAL:

Mr Chairman, it may appear as though I have egg on my chin to a certain extent. But let me explain how that situation has arisen and I am grateful for the opportunity of explaining. When the prospect of doing what the Honourable the Chief Minister now seeks to do by moving the amendment he has to this Bill, was raised, I think, it was raised at the last meeting of the House, Mr Chairman, I said what I said then conscious of the fact that my Learned predecessor last year had advised the Deputy Governor that in his view the only way to implement the pay rises which fall within the category of Specified Offices was to each year come to the House of Assembly. I was aware that he had given that advise and I thought then that I had no reason to doubt his advise and accordingly I said that that advise was correct and that I agreed with it. However, in view of the indications given by the Honourable Members of the Opposition and following discussions with the Honourable the Chief Minister I was asked to look at the matter and form my own opinion and I came to the conclusion, Mr Speaker, that the word "legislature" in Section 68 of the Constitution, which is the relevant section of the Constitution dealing with

this, the term "legislature" had been wrongly interpreted by my Learned predecessor as being restricted to the House of Assembly and the Governor. The interpretation of the word "legislature", Mr Speaker, is not specifically defined anywhere in Gibraltar law, but in the interpretation and General Clauses Ordinance, the word "law" is widely defined and clearly includes any form of legislation whether it be primary or subsidiary and the law of course, Mr Chairman is made by the Legislature and in the Oxford dictionary the word "legislature" is clearly defined as meaning law made by anyone, a body of persons or any person to whom the power of making legislation has been entrusted. Therefore, Mr Chairman, in my respectful opinion it includes the making of legislature by someone who is empowered to make it by Statute in the form of subsidiary legislation and the provisions of Section 68, Mr Chairman, that the legislature may prescribe salaries and, of course, if it does so and it has done so then those salaries shall be paid, but there is nothing in Section 68 and there is nothing elsewhere in Gibraltar law, Mr Chairman, which prohibits the legislature once having prescribed our salaries, which prohibits the variation of these salaries from time to time without the necessity of primary legislation being put through the House of Assembly. Now, Mr Chairman, those were the views I had formed and because of the Constitutional implications arising from the amendment which the Honourable the Chief Minister has proposed, the views of Foreign and Commonwealth Office through the Office of the Deputy Governor have been sought and I am very pleased to be able to tell this House that the FCO's Legal Adviser's Department fully agree with and support the opinion I have given to the Honourable the Chief Minister. Therefore, Mr Chairman I am called upon to disagree with the views expressed by my Learned predecessor and I am satisfied to say to this House that I am satisfied and London is satisfied that the amendment that the Chief Minister seeks to move to this Bill is a proper amendment to make and if the Bill is enacted in its amended form as proposed will be perfectly valid law.

Clause 2, (renumbered as Clause 3) as amended, was agreed to and stood part of the Bill.

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

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary abstained on this Bill.

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1990

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 SHOP HOURS (AMENDMENT) BILL, 1990

Clauses 1 to 7 were agreed to and stood part of the Bill.

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

THE FAST LAUNCHES (CONTROL) (AMENDMENT) BILL, 1990

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

Clause 2

HON M A FEETHAM:

Sir, I have given notice of a minor amendment and have circulated the amendment since and can I take it as read?

MR SPEAKER:

Yes.

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 GIBRALTAR COINAGE (AMENDMENT) BILL, 1990

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 GIBRALTAR COINAGE (ECU) BILL, 1990

Clauses 1 to 8 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 HOUSING (SPECIAL POWERS) (AMENDMENT) BILL, 1990

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

Clause 2

HON J L BALDACHINO:

Sir, I beg to move that the amendments that are standing in my name I propose to be taken at this stage and can I have it as I have circulated already the amendments, could it be taken as read?

MR SPEAKER:

Yes.

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

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

Clause 4 was agreed to and stood part of the Bill.

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

THE POLICE (AMENDMENT) (NO. 2) BILL, 1990

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

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

THE LEGAL AID AND ASSISTANCE (AMENDMENT) BILL, 1990

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 SAVINGS BANK (AMENDMENT) BILL, 1990

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 AUDITORS REGISTRATION (AMENDMENT) BILL, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have circulated these amendments with members discretion perhaps can they be treated as read.

HON LT-COL E M BRITTO:

Mr Chairman, the amendments to Clause 3, it will be appreciated have been given at rather at short notice and we really have had no time to check them. An explanation would be appreciated.

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

New Clause 1A

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will explain the position, Mr Chairman. Recent EEC Directives place an obligation on Member States to open up access to professions from other Member States. It is proposed that the simplest way for this to be applied in our case is to link access to Audit Registration in Gibraltar by reference to what the appropriate body in the UK accepts as equivalent qualifications.

HON LT-COL E M BRITTO:

Mr Chairman, I am slightly confused by the wording of the actual amendment. Clause 3 is amended in paragraph (b) by inserting after sub-paragraph (1), the following

new sub-paragraph. And then we get la omitting paragraph b, is it amending paragraph b or omitting paragraph b? There seems to be a confusion in the wording of the amendment.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think one of the causes for the confusion I have just noticed is that where it says la in the amendment Sir, it should read roman numeral i(a). I think it is easier to locate where this amendment ought to be. I have just noticed that. What we are doing in fact is replacing what is present in that.

HON LT-COL E M BRITTO:

But are you omitting paragraph b or not?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I am omitting it. Can I clarify Sir, when we talk about b, what we are referring to is the Clause in the original Ordinance b in Section 4, which says "has qualifications similar to those referred to in paragraph a obtained outside the United Kingdom", so it is that that which we are replacing with a somewhat larger clause that relates to the EEC obligations that I have just mentioned.

New Clause 1(a) was agreed to and stood part of the Bill.

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

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

Clauses 4 to 8 were agreed to and stood part of the Bill.

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

THE INCOME TAX (AMENDMENT) (NO.2) BILL, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again, Mr Chairman, a number of amendments have been circulated. If I could take them as read then I would be happy to respond to any comments or questions that the members have.

HON LT-COL E M BRITTO:

Just one minor point, Mr Chairman, to thank the Honourable the Financial and Development Secretary for meeting me half way on the question of the Company Secretary. I notice he is taking away the responsibility in this Bill even if he has not done so on the previous one or the next one. So at least we have compromised half way.

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

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

Clause 4 was agreed to and stood part of the Bill.

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

Clauses 6 to 8 were agreed to and stood part of the Bill.

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

THE GAMING TAX (AMENDMENT) BILL, 1990

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 COMPANIES (TAXATION AND CONCESSIONS) (AMENDMENT) BILL, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again Mr Speaker, there are a number of minor amendments, but if members are happy to take them as read, I will be happy to respond to any questions.

HON LT-COL E M BRITTO:

Just one point Mr Chairman, could the Honourable the Financial and Development Secretary confirm, for the record, that under Company Law there will still be a requirement for companies to have an Auditor appointed and have Accounts drawn up? Even now there is no longer the requirement for the Auditor to make the certificate which is now being passed on to the Directors. Is it not likely that some of these Exempt Companies that exist as merely holding properties across the border it is unlikely that Accounts will be prepared and if Accounts are not prepared because the company is not trading is this in breach of Company Law or is it permissible?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Honourable member is perfectly correct, Mr Chairman, in saying that under the Companies Ordinance there is an obligation on Companies to have an audit undertaken and to prepare Accounts. Can I also say that there are Directives going back to the Bill earlier on. On Companies Directives it does give certain flexibilities in relation to large and small companies in relation to where the audit has to be carried out. Such flexibility in relation to small companies and also in relation to small companies certain provisions which relate to simplified Accounts being maintained and these are issues that are going to have to be addressed when we come to implement the EEC Directives as we are required to.

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

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

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

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

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

THE ENDANGERED SPECIES BILL, 1990

Clauses 1 to 11 were agreed to and stood part of the Bill.

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

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

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) (NO.2) BILL, 1990

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

Clause 2

HON J C PEREZ:

Mr Chairman, I gave notice and explained at the time of the First and Second Reading the reason for this amendment is there any objection? If not I submit that it should be taken as read.

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

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

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

THE TRAFFIC (AMENDMENT) (NO.2) BILL, 1990

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

Clause 2

HON J C PEREZ:

Mr Chairman, this might be more confusing for the Clerk, because it amends a lot of sections but again I explained at the time of the First and Second Reading what the amendments were all about and why they were being introduced. If there are questions I will be happy to answer them. If not could they be taken as read?

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

Clauses 3 to 9 were agreed to and stood part of the Bill.

Clause 10, as amended, was agreed to and stood part of the Bill.

Clauses 11 and 12, as amended, were agreed to and stood part of the Bill.

Clauses 13 and 14 were agreed to and stood part of the Bill.

Clause 15, as amended, was agreed to and stood part of the Bill.

New Clause 15A was agreed to and stood part of the Bill.

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

Clause 17, as amended, was agreed to and stood part of the Bill.

Clause 18 was agreed to and stood part of the Bill.

Clauses 19 and 20, as amended, were agreed to and stood part of the Bill.

Clause 21 was agreed to and stood part of the Bill.

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

THE COMPANIES (AMENDMENT) BILL, 1990

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

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 K W Harris  
The Hon P J Brooke

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 and 2 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 Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

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 CRIMINAL PROCEDURE (AMENDMENT) BILL, 1990

HON ATTORNEY-GENERAL:

Mr Chairman, subject or following the indication I gave on the Second Reading of the Bill in my address there are two minor spelling errors which I seek to correct Sir, both in Clause 2 which is a lengthy Clause. Firstly in the new Section 57B the Section which deals with the offence about absconding by person released on bail, in Subsection 2, paragraph B, there is appears to be a spelling mistake in the word "idemnify" and I seek to correct that.

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

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 BUSINESS NAMES REGISTRATION (AMENDMENT) BILL, 1990

Clauses 1 and 2

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
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 Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

Clauses 1 and 2 stood part of the Bill.

Clauses 3 to 5

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 K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

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 Dr R G Valarino

Clauses 3 to 5 stood part of the Bill.

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



THE INSURANCE COMPANIES (AMENDMENT) BILL, 1990

Clauses 1 to 21 were agreed to and stood part of the Bill.

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

THE BANKING (AMENDMENT) BILL, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, can I give notice of a couple of minor amendments that I have circulated. Clause 13 as amended by inserting after the word "repealed" the words "and replaced", and secondly Clause 21 as amended by including in the marginal notes after the figure 23 in their correct numerical positions the figures 56 and 57. It simply relates to a couple of paragraphs now superfluous in the light of the amendments made to the Bill.

HON M K FEATHERSTONE:

Also Mr Chairman, in Clause 7 perhaps we can get rid of the medical trauma and have a "comma" instead of a "coma".

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

Clause 13, as amended, was agreed to and stood part of the Bill.

Clauses 14 to 20 were agreed to and stood part of the Bill.

Clause 21, as amended, was agreed to and stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Specified Offices (Salaries and Allowances) (Amendment) (No.2) Bill, 1990, with amendment; the Imports and Exports (Amendment) (No.2) Bill, 1990; the Shop Hours (Amendment) Bill, 1990; the Fast Launches (Control) (Amendment) Bill, 1990, with amendments; the Gibraltar Coinage (Amendment) Bill, 1990; the Gibraltar Coinage (ECU) Bill, 1990; the Housing (Special Powers) (Amendment) Bill, 1990, without amendment; the Police (Amendment) (No.2) Bill, 1990; the Legal Aid and Assistance (Amendment) Bill, 1990; the Savings Bank (Amendment) Bill, 1990; the Auditors Registration (Amendment) Bill, 1990, with amendment; the Income Tax (Amendment) (No.2) Bill, 1990, with amendment; the Gaming Tax (Amendment) Bill, 1990; the Companies (Taxation and Concessions) (Amendment) Bill, 1990, with amendment; the Endangered Species Bill, 1990; the Public Utility Undertakings (Amendment) (No.2) Bill, 1990, with amendment; the Traffic (Amendment) (No.2) Bill, 1990, with amendment; the Companies (Amendment) Bill, 1990; the Criminal

Procedure (Amendment) (No.2) Bill, 1990, with amendment; the Business Names Registration (Amendment) Bill, 1990; the Insurance Companies (Amendment) Bill, 1990; and the Banking (Amendment) Bill, 1990, with amendment, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Imports and Exports (Amendment) (No.2) Bill, 1990; the Shop Hours (Amendment) Bill, 1990; the Fast Launches (Control) (Amendment) Bill, 1990; the Gibraltar Coinage (Amendment) Bill, 1990; the Gibraltar Coinage (ECU) Bill, 1990; the Housing (Special Powers) (Amendment) Bill, 1990; the Police (Amendment) (No.2) Bill, 1990; the Legal Aid and Assistance (Amendment) Bill, 1990; the Savings Bank (Amendment) Bill, 1990; the Auditors Registration (Amendment) Bill, 1990; the Income Tax (Amendment) (No.2) Bill, 1990; the Gaming Tax (Amendment) Bill, 1990; the Companies (Taxation and Concessions) (Amendment) Bill, 1990; the Endangered Species Bill, 1990; the Public Utility Undertakings (Amendment) (No.2) Bill, 1990; the Traffic (Amendment) (No.2) Bill, 1990; the Criminal Procedure (Amendment) (No.2) Bill, 1990; the Insurance Companies (Amendment) Bill, 1990; and the Banking (Amendment) Bill, 1990, the question was resolved in the affirmative.

On a vote being taken on the Specified Offices (Salaries and Allowances) (Amendment) (No.2) Bill, 1990, the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon P C Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino

The following Hon Members abstained:

The Hon K W Harris  
The Hon P J Brooke

On a vote being taken on the Companies (Amendment) Bill, 1990, 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 K W Harris  
The Hon P J Brooke

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

On a vote being taken on the Business Names Registration (Amendment) Bill, 1990, the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
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 Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Member voted against:

The Hon P C Montegriffo

The Bills were read a third time and passed.

The House recessed at 8.05 pm.

FRIDAY THE 9TH NOVEMBER, 1990

The House resumed at 10.40 am.

#### PRIVATE MEMBERS' MOTIONS

HON LT-COL E M BRITTO:

Sir, I have the honour to propose the motion standing in my name which reads -

"This House is concerned about the welfare and care of our senior citizens and in particular about the uncertainty surrounding the future of Mount Alvernia, and calls upon the Government to take whatever steps may be necessary to guarantee the continuation of this essential facility for the elderly."

Mr Speaker I intend to divide my contribution into two parts. Firstly I would like to speak in general terms on the care of the sick and the elderly and in my second part deal, in particular, with Mount Alvernia and the uncertainty surrounding its future. Mr Speaker, whilst it is always envidious to make generalisations, I intend to divide the sick and elderly in general into four groups, or four sections, and deal with them separately. Under group (a) I will consider those who are, although old, because we are talking about old people, healthy, whose health is OK, and do not have abnormal problems and therefore are self-sufficient and can look after themselves quite well. Group (b) are those where health is beginning to fail and help is needed to a greater or lesser degree depending on the situation at any given moment. Group (c) I will consider to be those who are croniclly sick and who need continuous medical care. Finally, under Group (d) I will consider those elderly citizens who need continuous assistance, not necessarily of a medical nature although they may require this and need continuous assistance and supervision. Now, Mr Speaker, it is possibly easy to leave the care of the elderly as a low priority on the scale of what Government needs to do, but we are at a stage where we should be looking towards the future. The post-war baby boom will hit the older generations towards the end of the century and statistically by the year 2000 the over 50s will outnumber the under 50s. So the same problem that we experienced in our schools, in our education, where the baby boom increased the size of classrooms and increased the size of intakes so considerably some years back will be reflected in things like care institutions, like hospitals, Mount Alvernia, etc in about ten years time. Now, Mr Speaker, let us take Groups (a) and (b) together, in other words, those people whose health is generally ok or possibly failing slightly and who range between the self-sufficient and the needing some degree of help to a greater or lesser degree at any given moment. Now traditionally, Mr Speaker, we Gibraltarians have been very caring of our elderly and traditionally most of our senior citizens tend to live at home and are looked after by their families. It is the exception that needs to be permanently hospitalised or looked

after in a place like Mount Alvernia. However within this traditional care by the family, Mr Speaker, there is a need to recognise the dignity, the independence of our senior citizens and their desire to maintain their self-sufficiency. There is also a need to take some pressure off the families concerned where care provided is of a large degree. In some of these cases the pressure on the family is quite considerable. Let us look now, Mr Speaker, at what assets, if I can call them that, the Government has at its disposal to alleviate the problems of these elderly citizens that I am talking about and which are normally seen in the street or in their homes. First of all we have a District Nursing Service which consists of twelve persons. There is one Sister, five Staff Nurses, two Enrolled Nurses, one part-time Auxiliary and three Nursing Aides. The numbers are in line with the proportion in the UK and that does not appear to be a problem although I however understand that with regard to qualifications that is not yet at the level that one would require. At the moment only the Sister is qualified in District Nursing and the others are not. It could well be that this is due to recent increases in staff. It increased recently and I would urge the Government to look at this point and to increase the qualifications where possible. In the case of the second group, the Social Workers, the situation is slightly different and here we have only seven Social Workers, one Principal, two Senior Social Workers and four Social Workers to cover the whole of Gibraltar. The ratio in comparison with the United Kingdom is about half. In the UK the ratio is about one Social Worker to two thousand people and here obviously we have something in the region of one to every four thousand and their responsibilities in Gibraltar are considerable and far ranging. I am not certain how many of these are comparable with the UK and I have been unable to establish this point. However their responsibilities in Gibraltar range not just to care, of looking after elderly people, they also have responsibility for the handicapped and the disabled. They act as well as Probation Officers and they have responsibility for running the Childrens' Homes. Their responsibility includes looking after single parents and giving advise to the Housing Department in cases of housing problems. They have to be on-call, on a permanent basis, when needed by the Police. In some cases they have to attend Court. So, Mr Speaker, this group of people are stretched to the limit and I think that Government is probably aware of this and there is a need in this sphere for improvement both in the numbers and, again, in the level of training. I understand that not all of these officers are qualified at present in the work that they are doing. Finally the third group of people that we have are the volunteer workers and the only point that I want to make at this stage on that, Mr Speaker, is that excellent as the work that these volunteer workers do, I understand that there is a need for coordination of the various groups involved. Some groups are working separately and sometimes the work that they do overlaps and consequently, Mr Speaker, there is a need for some initiative to be taken in appointing a volunteer organiser, not necessarily a paid member of the DLSS. Mr

Speaker, we have looked at the people that we have available to help out our elderly with their problems. Now let us make a comparison with the situation in the UK where there is legislation making some aspects of it obligatory on the Councils. Under the 1970 Chronically Sick and Disabled Persons Act, the Act required Local Authorities to compile a register of the disabled and every disabled is included as chronically sick. There is a Register of the disabled in their area in order to identify the extent of the need for the provision of services and resources and most importantly compels those Authorities to make available, as of right, the following facilities to persons in need who are ordinarily resident in that area. These facilities include practical assistance within the persons' home, the provision of assistance in obtaining wireless, television or similar recreational facilities, the provision of assistance or assistance in taking advantage of lectures, outings, games and other recreational activities outside the home, transport to such services as provided under the legislation, assistance in arranging for works to adapt the home or to provide additional facilities to secure greater comfort, safety, convenience, the provision of holidays whether under Schemes arranged by the local Authorities or by other persons, the provision of meals for that person whether in his own home or elsewhere and the provision of a telephone or assistance in obtaining a telephone and any special equipment needed to use it. In addition to the Statutes mentioned it also places on local Authorities Statutory duties with regards to housing, with the provision of home help, the parking of cars of disabled people, access to public buildings and the provision of advertisement of suitable public conveniences. Mr Speaker, it is a massive list and obviously not one that any Government could hope to implement at one time or very quickly, but I illustrate the list to show the tremendous gap there is in legislation between what is required by law in UK and what we provide in Gibraltar and the need for a study to be made in that area to see what can be done. Additionally, Mr Speaker, I want to bring to the notice of Government ten points of a similar and possibly overlapping nature to what I have just read out and the feed-back that I have of what needs to be looked at in purely Gibraltar terms. The first one, Mr Speaker, is the provision of a Day Care Centre. I know there is a Day Centre but this is geared more towards the cancer patients and there is a need for some sort of Day Care Centre not only to provide social and recreational facilities for elderly people but also to provide a respite for families who are looking after these elderly citizens who need a certain degree of care and who are normally housebound. Secondly there is a need for the assistance of home help and let me add at this stage, Mr Speaker, that again some of the areas that I am going to touch on the Minister will no doubt say later on that they are already being catered for by Social Workers and by the District Nurses. However the feed-back that I have in relation to the numbers that I have mentioned is that there is a need for expansion so that a broader approach can be made. A system of home help, Mr Speaker, is needed

where we have elderly people who are on their own and who need some degree of assistance with things like shopping, cleaning of the house, cooking of their meals and even dressing and personal hygiene. A transport service is required, Mr Speaker, for those people who have difficulty with hills or steps and who may not live in the centre of town and who may need help with shopping and who may not be able to afford public transport. Another thing that is done in the UK is to provide a sitter service and again the sitter service is aimed as much as providing respite for those members of the family who look after an elderly or disabled person as to provide a change for the person concerned. Similar to this is respite care in a hospital, and again I understand, that this is sometimes done through St Bernard's but for the obvious reason that there is a shortage of beds and there is difficulty in providing this sort of respite care and usually I understand it only happens after a certain degree of suffering and hardship of the person concerned. Another grey area is those people who cannot be kept in hospital because they are no longer acute medical cases but they are discharged because of the need for hospital beds although they may still need a longer term rehabilitation. At present, Mr Speaker, it is difficult to provide for this problem because there is no facility in between the hospital and going back home for this rehabilitation. Another service that can be provided without too great a cost, Mr Speaker, is the provision of "Meals on Wheels" and again this is something that can substitute or go hand in hand, with the home help service for elderly people living by themselves who have difficulty in cooking for themselves because of the dangers associated with fire, etc. Occupational therapy and home therapy I will take together. The first one Occupational Therapy is aimed at helping people to adapt to their needs after, for example, an accident and again more needs to be done in the home itself because not enough is being done as a result of staffing problems. Again there is difficulty with the Physiotherapy Department in the hospital because there is shortage of staff and a waiting list I understand. On home physiotherapy which is really a follow up to the hospital treatment something is being done by the District Nursing Service but I understand that only two afternoons a week are available for this service for the whole of Gibraltar and they find themselves very pushed to be able to meet all the cases that need the service. Equipment, Mr Speaker, is another area that needs to be looked at. My understanding is that at present the hospital supply crutches and walking frames. But for things like wheel chairs, commodes and other similar types of equipment we are very largely, if not exclusively, dependent on volunteer organisations to help people out. In fact the Community Occupational Therapist, I understand, is in need of improvements in things like tap turners, bath boards, chair raisers for the use of patients in their homes and to help those patients. Finally, Mr Speaker, the tenth point really links up what I am going to talk about in the terms of Mount Alvernia and the provision of sheltered homes and this is not as dramatic as it sounds but is purely to help those

people who may be living alone who are still well enough, even if they are old, to fend for themselves but who have the insecurity because of old age of having a fall or having a problem and all it means, Mr Speaker, is the provision of a life-line. A simple telephone to a neighbour or someone living fairly near. As a matter of coincidence I saw them in the Isle of Man when we were there two weeks ago. There are telephones geared for this purpose which are custom made and all they need apart from the normal functions of the telephone is a special button under them which links the old person or the disabled person concerned direct to a neighbour or to a person in the neighbourhood. There is no need to lift up the telephone. It works automatically on a speaker system and it is meant for use in the case of someone having a fall or having difficulty. All the person has to do is press this button and he has immediate contact with someone who can come and help. As I say, Mr Speaker, ten areas that I commend the Government to look at as something that can be done. I now come on, Mr Speaker, to what I called the group (c) those persons who need continuous medical care and this in a way, Mr Speaker, is probably the easiest group to deal with because if they need continuous medical care then we are talking about those who are chronically sick and who need to be in-patients in a hospital. At present we have two Wards, Lady Begg and Louis Stagnetto in St Bernard's for looking after these people. The only problem, Mr Speaker, as I am sure members on the other side are aware, is that there is usually a problem of shortage of beds in these two wards. There is a waiting list and sometimes people have to be looked after at home because there is simply not enough room in the two wards to accommodate them. Finally, Mr Speaker, I will come to the last group, the group of elderly citizens whose health may be bearing from one degree to another but through either old age or through previous sickness or whatever they are in need of permanent help, continuous assistance, and a certain degree of supervision and in this case I am talking specifically about people like the residents of Mount Alvernia who need a residential home or somewhere where they can be looked after. At this point, Mr Speaker, I will digress to talk about Mount Alvernia itself and the second part of the motion. I think it is probably relevant to look at the background of Mount Alvernia to set the whole thing into perspective. Mount Alvernia is one of the three homes for the aged in Gibraltar and it was opened in November 1963. It was built from a legacy left by the late John Mackintosh. The second home was built for the Anglican community and that opened in 1965. However in 1980 this home was amalgamated with Mount Alvernia on account of the diminishing number of residents. The third home accommodates members of the Jewish community and is still functioning. Mount Alvernia is funded by the Mackintosh Trust and the administration of the Home is undertaken by the Sisters of the Franciscan Missionaries of the Divine Motherhood. The Home now accommodates about one hundred senior citizens of different denominations. Originally the Home was a home whose residents required minimal care but over the years the number of those who required more specialised and even

total nursing has increased tremendously. There is a Board of Governors who are responsible for the financial upkeep of the home. In 1975 an auxiliary committee called The Friends of Mount Alvernia was set up and this Committee provides financial help as a result of the tremendous generosity of the public. The Friends of Mount Alvernia provide extra but essential equipment, for example, surgical beds, ambulances and wheel chairs. They also provide refreshments and videos on a weekly basis as well as entertainment and outings. Although originally funded entirely from the proceeds of the late John Mackintosh, for some time back now it has been necessary for these funds to be supplemented by Government subsidies and at present this subsidy is running at £230,000 per annum. Now earlier this year, Mr Speaker, it was announced that the Sisters would be leaving Gibraltar at the end of 1990, and although a subsequent announcement said that two or three of them, I think, are willing to stay on until March of 1991 to help with the overlap of the new arrangements, the bulk of the sisters are leaving in six or seven weeks time. Now this fact, Mr Speaker, coupled with the persistent reports that Mount Alvernia was having financial difficulties has been a cause of increasing concern, not only to the residents and to their families, but also to all Gibraltarians who are conscious of the welfare of our senior citizens. In this respect, Mr Speaker, I have to say that Government's silence in this past few months has not helped to allay these fears in any way. Similarly the non-appearance of the Minister on a discussion programme on GBC left a lot to be desired because if he had faced the public on that occasion and given them some sort of assurance that people who had sick relatives were seeking then maybe their worries and problems which they had been experiencing during the last few months would not have existed. Mr Speaker, we in the Opposition were considerably alarmed at some of the reports that were circulating, I think, it was during July of this year about the future of Mount Alvernia and the possible solutions that were being mooted in order to finance, or continue to finance, the Home. The two things that alarmed us most was an indication that consideration was being given to selling the Home to a private enterprise of whatever sort. This alarmed us, Mr Speaker, because we felt that it would be impossible to guarantee that the Home would continue in its present functions once ownership was passed on to private hands and over which we could not exercise control in the long term. The second cause for concern, Mr Speaker, was reports that consideration was being given to having what I would call a private wing within the Mount Alvernia set-up where patients from the Costa, it was rumoured, ex-patriates living in the Costa, would come in and use the Home on a paying basis. This extra finance would be used to improve the financial situation of the Home and we felt, Mr Speaker, that as long as there were Gibraltarians who were wanting to enter Mount Alvernia, and at the moment my understanding is that Mount Alvernia is not working to its full capacity because of a deliberate policy of expenses, Gibraltarians who wanted to enter Mount Alvernia, that the priority should be given to these patients and that the idea of private patients should be shelved.

I know, Mr Speaker, that a Study has been carried out and that a Report has been given to the Governors but obviously this has not yet been made public and certainly we on this side of the House are unaware of what future course the Home is intending to take. Now, Mr Speaker, it is perhaps relevant to say at this stage that although we understand and appreciate that the day-to-day running of the Home is primarily a matter for the Board of Governors, without doubt Government has an undeniable moral and political responsibility towards our elderly Gibraltarians and especially towards those who do not have the financial means or the family to ensure their well-being. Now Government already accepts this responsibility, Mr Speaker, by providing Mount Alvernia with a substantial annual subsidy and it is becoming clear that in the new situation that will be brought about by the departure of the Sisters that this subsidy alone will not be enough to ensure that the Home continues to function in its present form. So, Mr Speaker, I hope that when the Minister exercises his right to reply he will be in a position to give us an indication of what Government is doing or intends to do. The situation to me seems very clear because as it stands at the moment Mackintosh Homes, which is what the will of the late John Mackintosh asked for them to be called, are running on the interest of the money left by John Mackintosh but despite the Government subsidy, capital is having to be used to supplement those funds. My estimate, on the information that I have, is that if that capital continues to be used it will be used up within three to five years. Now, Mr Speaker, I put it to the Government that Gibraltar has been lucky in that we have had a Home for our elderly citizens which has been provided by the late John Mackintosh and the cost of running it has been met to a very large extent from those funds. If however this had not happened and the late John Mackintosh had decided to leave his money in a different way then at some stage Government would have had to foot the whole bill for the care of these people and Government would have had to make provision for an old peoples' home like in all other civilised countries there are both privately run homes for those of better means and who can afford to pay for their up-keep in their old age and Government homes which are meant for people who are in need. So as I said, Mr Speaker, if we had not had the advantage of John Mackintosh the cost to Government, and to the taxpayer, would have been considerably more than it has been up to now. Mr Speaker, if the Government does not step in now and takes an active financial interest in helping Mount Alvernia out with its problems then the same situation is going to arise within three to five years when that money runs out. It is however inconceivable that this Government or any other Government would just close down Mount Alvernia and leave our elderly citizens without a Home to reside in. So, unless Government does something now and unless a solution can be found in the long term the cost to the taxpayer is going to be considerable. I hope and trust that the Minister is in a position to assure this House and to assure the residents and the families of those residents of Mount Alvernia of what the future



plans are for Mount Alvernia in the coming year and what support if any the Government intends to give in order to maintain at least the status quo if not an improved situation in the old peoples' home. In conclusion, Mr Speaker, I would suggest to Government that if it is intending to take a more active involvement in the Home then maybe I can impart to Hon Members opposite a few suggestions that have been made to me by people who have seen the interest that I have been taking over the last six months. One of the suggestions that runs through most peoples' minds is the extending of the facilities at Mount Alvernia. A considerable part of the building, something like thirty five extra rooms in a separate adjoining building, where the Sisters reside at the moment, will become available and this would be an ideal opportunity to extend the functions of Mount Alvernia and perhaps the Geriatric Wards in St Bernard's Hospital could be moved up to Mount Alvernia together with the nursing staff. This could be one way in which Government could help to finance the undertaking in the Old Peoples' Homes by the moving up staff and the Geriatric Wards. More use could be made of the Home as a rehabilitation centre so that people could move in for shorter periods in order to be rehabilitated and then move back into their own homes and have the specialist medical care given at the rehabilitation centre and so on. We are talking about a grey area, Mr Speaker, I was talking before about people who are no longer cronically sick enough to be kept in a hospital but have at the moment to be sent home where the degree of medical care that they need cannot always be provided. Another point that keeps coming up, Mr Speaker, and possibly Government could use its influence to do something about it, is the abolishing of the minimum age for admission into the Home which at the moment runs at 65 for men and 60 for women. It seems to me very much a matter of commonsense, Mr Speaker, that one cannot be so dogmatic about saying that a person is suitable to enter the Home at 65 plus one day and unsuitable at 65 minus one day. The circumstances of the particular case need to be taken into account and the age barrier should not be so strict and so dogmatic. There is also, Mr Speaker, a need for the admission system to be looked at and there is a need for more input from the Social Services (Social Workers) and from the District Nursing Service on the admission system. It is these persons who are dealing with patients on a day-to-day basis who are likely to know whether they may be better off in the Home. We all know that there is difficulty in getting in because numbers are being limited and input from these people is important to make sure that the right priority is given to people who need to be admitted. Finally, Mr Speaker, there is a need to improve the numbers of Nursing Staff in the Home. As I said before, Mr Speaker, when the Home was set up originally, the number of residents who required medical care was minimal but over the years the number of those who are requiring more specialised and even total nursing has increased tremendously and what has happened, Mr Speaker, is that the Home was set up originally with a level of nursing staff in broad terms to compare it with the hospital at the level of Sister or Staff Nurse

and then a level of Auxiliaries or Cleaning Staff or Industrial Staff. Originally because there were not many cases of a medical nature there was no middle strata of nursing but now as more and more cases have developed, there is a need for that middle strata to be filled. However, instead of employing at this level, Sisters and Staff Nurses are doing jobs that they would not normally do. I would predict, Mr Speaker, that if and when the Report of the Speciality Team is published that will be one of the recommendations contained in that report because in my discussions with them they were very sympathetic to this point and they had picked it up themselves. Finally but not least, Mr Speaker, I understand that there is currently considerable worry amongst the staff at Mount Alvernia at the lack of a suitable Pension Scheme for the staff and although I appreciate the difficulty or the impossibility of trying to remedy this in retrospect, there is obviously a need for this area to be looked at in any reorganisation, or in any changes, that are made. In conclusion, Mr Speaker, I would just say that this motion has not been intended as a controversial one but has been prompted from genuine concern which is being expressed by residents and families of residents in Mount Alvernia as well as from members of the public. I sincerely hope that the Government will not shield behind the line that Mount Alvernia is the responsibility of the Board of Governors and that Government has no responsibility over and above providing a subsidy and letting them get on with the job. Because without doubt Government has a moral and a political responsibility for our senior citizens beyond just providing these funds. I stress what I said before that we are at an ideal juncture, at an ideal point in time, for a greater involvement, not necessarily financial, but a greater involvement by Government and at the same time a greater influence by Government on the way the Home is run as well as looking after the welfare of our senior citizens. Mr Speaker, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Honourable Lt-Col E M Britto.

HON R MOR:

Thank you Mr Speaker. The Honourable Member started off by categorising or classifying our elderly into four groups. I think he will be pleased to know that we are not far off there. We have classified them into three groups. The Hon Member has also made some references to nursing qualifications and other things which I am sure he will appreciate that I am not in a position to answer. I could not answer on the nursing qualifications or the type of equipment or things like that which are normally dealt with by the Health Authority. The Hon Member did mention the Social Workers and I am not sure whether he was referring to the elderly or generally. The impression I got was that he was referring generally and not within the context of the motion. He did bring up the facilities which could be provided as regards visiting the elderly and doing shopping, etc for them. Well, Mr Speaker, the Honourable



member may be aware that that service is already in place and we are providing such a service. He also drew attention to a sitter service which again I am not sure whether he was referring to the elderly or the handicapped. As the Honourable member knows we are setting up a new building to replace the St Bernadette's Occupational Therapy Centre and in that respect any service of this kind will be taken into consideration. Mr Speaker, when we came into office in March 1988, as you may recall, we had no time in which to review the budgetary allocations for 1988 and given that the timing of the election was too near Budget time we therefore accepted what had already been earmarked by the previous administration and we allocated all the funds accordingly. In the case of the John Mackintosh Homes, the subvention which had been agreed at the time was £180,000 and we provided £180,000. This was later increased to £193,000 at their request. In 1989, the subvention requested was £230,000 and again we provided Mount Alvernia with £230,000. I think, Mr Speaker, that at this point it would perhaps be useful to look at a chronological account of the subventions paid to the John Mackintosh Homes since 1984 in order that we can see the trend in increases which have taken place. In 1984, the subvention was £142,000; in 1985 it was £153,000; in 1986 it was £167,000; in 1987 the subvention was £180,000; in 1988 as I said before we provided £193,000 and in 1989, again, as I have said before we provided £230,000. Now Mr Speaker, the increase in 1985 over the 1984 subvention was £11,000, the increase in 1986 over 1985 was £14,000; the increase in 1987 over 1986 was £13,000 and 1988 over 1987 again £13,000. So one can see, Mr Speaker, that if one added up all the increases which I have just mentioned and divided the total by the number of increases you would arrive at the average increase in subventions which have taken place between the years of 1984 and 1988. The figure would be £12,750 which represents the average increase, as I said before of between 1984 and 1988. However if you notice, Mr Speaker, that in 1989 we paid a subvention of £230,000 when in 1988 this had been £193,000, and no doubt it will be seen that this represents an increase of £37,000. It can therefore be appreciated, Mr Speaker, that the increase in subvention for 1989 over that of 1988 was nearly three times as much as the average increase between the years of 1984 and 1988. What I am trying to demonstrate, Mr Speaker, is the sharp increase which has been experienced in 1989. That gives an indication of the extent of the problem which Mount Alvernia is currently facing. The problem is one of escalating costs. The problem is one of the costs in running the Home exceeding very rapidly the income that can be produced by their investors. Mr Speaker, this is not a peculiar or particular problem related to Mount Alvernia. I am given to understand that similar problems are faced occasionally by other residential homes in other parts of the world. The situation as regards the present financial situation of the Homes, as far as I am concerned Mr Speaker, is not clear. The last Audited Accounts we hold are those in respect of 1988. We are still awaiting the 1989 Audited Accounts. We did however receive a letter from the previous Deputy Governor, just before he left,

indicating that projected expenditure for 1990 had been seriously underestimated. We do not know, Mr Speaker, what effects this will have on the finances of the Homes and we will have to await for more detailed information. Equally it is not known how this could affect the advice, projections and recommendations made by the experts commissioned to look at the Home's future. Given the lack of detailed information the Government is presently unable to gage the extent of the problem and it is therefore not in a position to comment any further. What the Government has done however is to establish a dialogue between the Trustees of the Homes and the Government through the Deputy Governor, who is the Chairman of the Board of Trustees. As is known, Mr Speaker, the present Deputy Governor has been here for only a short time and he will need some time to familiarise himself with the situation in Mount Alvernia. Mr Speaker, as a Government, our policy is that we have a responsibility for the welfare and care of all our elderly citizens in Gibraltar. It is not our desire in any way to encourage our elderly citizens to end up in residential homes. We believe that our senior citizens should remain living within our community and surrounded by friends and neighbours in a normal environment. As a matter of policy we believe that they should be adequately housed and looked after through community care and community nursing. Too often Mr Speaker, and this is confirmed by experts, when elderly persons are placed in residential homes they are exposed to the psychological effect of feeling unwanted and perhaps even of feeling rejected by society. They see this as the end of the road as far as their lives are concerned and tend to give up their fighting spirit to face the challenges of life. So as I say, Mr Speaker, what we want for our elderly people is that they remain as ordinary members of our community and in this respect through our housing policy we are already in the process of building bedsitters and special flats to accommodate elderly persons. This does not mean that we do not recognise that there is a need for a residential home in Gibraltar. We consider that there will always be exceptional circumstances where elderly persons will need a much higher level of care that can best be provided in a residential home. There is of course another group of elderly persons who the Honourable mover of the motion referred to and those are persons who are unfortunately chronically ill and who need constant medical attention. We will of course continue to provide a service to this group within the Health Authority. As I have just indicated, Mr Speaker, the Government categorises our elderly persons into three groups. The first group is that which remains living within the community. The second is that which we consider would require residential home care and the third group is that which requires constant medical attention. As a matter of policy this Government, Mr Speaker, will be investing in all three groups. In view of what I have said, Mr Speaker, with your indulgence I beg to move that the motion be amended as follows. In line one Mr Speaker, after "This House" delete "is concerned about" and insert "notes the commitment of the Government to". In lines two and three Mr Speaker, after the words "citizens and" delete "in particular about" and insert "in respect of". In lines

four and five after "Mount Alvernia" delete "and calls upon Government to take" and insert "it considers that the present dialogue between the Government and the Trustees should continue". The amendments, Mr Speaker, do not in any way do away with the whole spirit of the motion. It just rephrases it slightly. A further slight amendment to the original motion Mr Speaker. In the last but one line replace the word "guarantee" with "ensure".

MR SPEAKER:

So the amended motion should read "This House notes the commitment of the Government to the welfare and care of our senior citizens and in respect of the uncertainty surrounding the future of Mount Alvernia, it considers that the present dialogue between the Government and the Trustees should consider whatever steps may be necessary to ensure the continuation of this essential facility for the elderly".

HON R MOR:

Mr Speaker, I beg to move the amendments.

MR SPEAKER:

I think I should make an explanation here on the question of amendments. There are basically two types of amendments, (a) one which strives to modify the motion to make it more acceptable and there is the other type of amendment which totally changes the motion and offers an alternative. I consider this one to be one which is trying to modify the motion to make it more acceptable. In view of this situation we are going to discuss the amendment which is so inter-related to the motion that quite honestly I am not going to ask members to speak on the amendment. I will put the amendment and if that is carried it obviously means that the motion is carried. If it were the second type of amendment, when the time warrants, I will explain to Hon Members the system I propose to use.

HON A J CANEPA:

Mr Speaker, we are very grateful for your guidance and clarification and I think, you have made the position abundantly clear. Having regard, Mr Speaker, to what the Honourable Mr Robert Mor has said, the sentiments that he has expressed and the drift of his words which are really very much in line with the purpose that the Honourable mover, my friend Col Britto, wanted to achieve. We detect both from what the Member has said and the amendments that he has moved that there is a definite commitment on the part of the Government to keep the John Mackintosh Homes going in broadly speaking, the way that we have always known. We therefore in those circumstances have no difficulty in accepting the amendments which results in a motion which is very much in line with what my Honourable friend was seeking. We will therefore have no problem in supporting the amendments.

HON P C MONTEGRIFFO:

I am prepared to accept the amendment, although I think certainly from my own perspective that it fails to recognise one particular aspect. I would submit that I agree that in a broad term it is worth having unanimity but I think it fails to reflect the question of concern that the original motion talks about. This is that this House is concerned about the welfare of our senior citizens and with the amendment the motion talks about this House noting the commitment of the Government. No doubt there may be a commitment of the Government generally to the welfare of the elderly citizens, but I think, this House generally, and certainly on this side of the House, feels a degree of concern about the future of Mount Alvernia, in particular, and the general welfare of the aged in our community. The amendment does not particularly address that. However notwithstanding that, Mr Speaker, the amendments at least commit the Government to ensuring the continuation of the facilities for the elderly that Mount Alvernia provides and therefore to that extent I will be supporting it. It would also have been preferable, Mr Speaker, bearing in mind that the original motion talked about the House being concerned, if the amendments could perhaps not only note the commitment of the Government on its own but also the commitment of this House to the welfare and care of our senior citizens. Because I think that what we are saying is that, as a House, we are committed to their welfare and if we were seeking in the motion moved by Mr Britto that the House, as a whole, was concerned then in a sense it would be desirable that the House itself in unanimity reiterated its commitment to our senior citizens and the motion should reflect that. But other than that point, Mr Speaker, I will support the motion.

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

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

HON LT-COL E M BRITTO:

Very briefly, Mr Speaker, just to make a couple of points on what the Hon Minister said when I was referring to Social Workers, the point that I was trying to make was that their duties in general cover a wide field, but I really was concerned as far as this motion was concerned on those duties that affected the elderly primarily. The Sitter Service, with respect, and St Bernadette's in particular, will not cover the needs of the elderly. No doubt the sitter service provided by St Bernadette's will cover the needs of the handicapped, but the question of a sitter service is more a question of providing someone to look after the elderly or disabled person at home. This is to ensure that members of the family who have to stay in to look after a particular person get a chance to go out themselves. This is as opposed

to a day-centre which would be more in parallel with St Bernadette's. The other point that I wanted to make, Mr Speaker, is that whilst appreciating the stress that the Minister has made on Government's policy to keep people at home and for people to remain at home and it to be the exception that people go to a residential home like Mount Alvernia, that however strong that policy is, and I think the Government accepts that, that one cannot dispute that there is a need to maintain something like Mount Alvernia or something similar. This is necessary despite however successful a policy of keeping people at home is. There will always be a need in the cases of single people and in the cases of people who unfortunately have no family that they need help in looking after themselves. So there will always be a need for something like Mount Alvernia and the only slight disappointment that I have with what the Minister has said was that although there is the commitment to the future of Mount Alvernia that with the Sisters leaving in the very immediate future the line that the Government is taking is that they are not able to comment further because they have not seen the accounts for 1989 and they have no knowledge of the contents of the Report. I would with respect suggest, Mr Speaker, that maybe an initiative should be taken by the Government to try and improve the state of the dialogue or the degree of the dialogue with the Trustees of the John Mackintosh Homes.

HON CHIEF MINISTER:

The Honourable member is not correct, Mr Speaker, and I would not want him to have that impression. The Deputy Governor informed me of the decision of the Board to bring somebody from UK and informed me of the results of that Report just before he left on the 18 October. He wrote to tell me that in fact it appeared that the Hospital Management Trust Viability Study had seriously underestimated the true picture. That Mr Speaker, was on the 18th October and that is the most up-to-date and most recent information available to us. We however do not know exactly what that means and we are waiting to find out.

HON LT-COL E M BRITTO:

I thank the Chief Minister for that clarification, Mr Speaker. I had misunderstood that completely because I thought that the mistake in underestimating the expenses had been done locally and not by the Hospital Trust. That puts the whole thing into perspective. All I will say to wind up, Mr Speaker, is that I encourage the Government to pursue the matter and to keep the public, and especially the residents and the families of the residents, informed because I do know from first hand experience that there is a considerable degree of concern and worry on the part of families with residents in the Home about the uncertainty of their future. Gibraltar being Gibraltar, Mr Speaker, and a home being a home and as a closely-knit community all sorts of wild rumours which one does not want to go into, at this stage, are flying around. This all leads to concern about the old people

who need to be at the Home. One final point just to close, Mr Speaker, to avoid any possible misunderstanding, when I was referring to the District Nurses and to the Social Workers and I made reference to the need for greater qualification and for greater staff, let me stress quite clearly and categorically that at no stage was I suggesting that they were not doing their work properly or casting any aspersions on any of these people concerned. On the contrary all the feedback that I have, talks of nothing but praise and congratulations for the excellent work being done both by the District Nursing Service and by the Social Workers. Thank you very much Mr Speaker.

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

HON DR R G VALARINO:

Sir, I have great pleasure to move the motion standing in my name which reads as follows:

"This House is concerned about the general condition of KGV Hospital and the facilities provided, and calls upon the Government to take urgent steps to remedy the situation".

Mr Speaker, I would like to start of by apologising to the Honourable Minister for having had to come here this morning. I am sure it must be painful for her to be sitting there with an extremely bad ankle. It may be also painful for her to listen to what I have to say but I am sure that most of the pain will be caused by the unfortunate accident which she suffered. I sincerely hope that she will be able to recover from this fairly quickly. Now why a motion and not a question? Well I think a motion had to be put first of all to let the public know about conditions at KGV. Secondly to let the other Members of the House, those who do not visit KGV on a regular basis, about conditions there and also so that the families are informed of what the Minister proposes to do to improve conditions at KGV. Not what conditions have already been done like the painting that has taken place or what the public spirited groups have done. What the families want to know is what will happen in the future to be able to bring this little forgotten area of the Gibraltar Health Authority to a fairly decent standard where patients, because really we are talking about patients, will be able to enjoy the few or many years they have left. This is a situation akin to that of Mount Alvernia where most of the patients are long-stay patients. Why did I not put a question? Well we are in the sad position of questions not being answered totally and with the reduction of the legislative powers of the Assembly I feel that as time goes on more and more motions could well come up to try and elicit important information that otherwise would not be acquired from Ministers at Question Time. Another of the reasons is that if we ask too many questions then

the problem of whether we are debating could well come into the picture. But putting that aside I would now like to make it quite clear that the motion deals specifically with conditions at KGV and the lack of facilities there and I would like to take this opportunity to publicly acknowledge the devotion and dedication of the nursing staff at KGV Hospital and throughout the Gibraltar Health Authority. I would also like to thank the many others who form part of the general day-to-day running of the Medical Services. As many of you will know KGV is structurally divided into two sections. An upper floor, which forms the acute ward where at the moment there are about twelve to seventeen patients, and the long-stay wards where there are usually about thirty-five patients. The acute ward is in much better condition than the chronic long-stay ward where the toilets, bathrooms, boilers, dining room, and kitchen are in conditions varying from deplorable to primitive. When I gave notice of this motion, the women's toilets and bathrooms were in a deplorable state. I am glad to say that work began on the toilets last Monday and I hope further work will continue throughout the Hospital. It is rather surprising that work began on Monday because the parents of patients there have asked repeatedly when work would start. What I would like to obtain from the Minister is a detailed account of what will happen after the women's toilets are completed. I realise that work at the moment is also being carried out at St Bernard's Hospital but I am sure that some sort of priority should be given to KGV Hospital as many of these patients are long-term patients. We are talking about the place itself, the toilets and the bathrooms, the boilers in the bathrooms are out of action and need replacing urgently. One of them has been held together by a nappy so it would not leak and in fact hot water is being piped to these bathrooms from the kitchen. The toilet doors are broken in half and resemble stable doors. Whilst the wash basins are in a gross state of disrepair. However even more important than this, the sewage system needs seeing to. There are frequent blockages and this is hardly hygienic to the patients. The smell is overpowering and I feel that this is one of the areas in which the Minister could well try to find a solution. At a meeting held in June this year this state of affairs was recognised by the Hospital Manager. The meeting was between the Hospital Administration, the staff and families of patients at KGV. This pressure group started their campaign way back last year soon after the Chief Minister visited the KGV in New Year and eventually a letter was written to the Honourable Minister in June this year giving a long detailed list of what was wrong. She delegated the Hospital Manager to take the matter up and a meeting was held subsequently where several interesting facts came to light and in fact the Hospital Manager agreed that the state of the toilets and bathrooms was deplorable and disgusting and confirmed that repairs were to be carried out. He could not say when and explained that the blockages in the toilets probably stemmed from the general sewage system and in this respect a waste disposal unit would be installed in the kitchen sink to alleviate the problem. The men's toilets are in the same condition with peeling

paint and crumbling walls down to the bare cement. The dining room, day room and kitchen areas are in a state of dilapidation. Often towels and blankets have to be put on the floor of the dining room as a result of leaks from upstairs. This water seems to come from the showers upstairs and is not caused by rain water and the blankets are put on the floor so that the patients do not slip and injure themselves. There is a rather forgotten look about KGV, Mr Speaker, KGV is the ugly duckling of the Gibraltar Health Authority. There are numerous day-to-day things that need doing. Now one important thing is that there is a labourer at KGV and in fact when things need doing usually requisitions are sent to the handyman at St Bernard's. Now the handyman at St Bernard's is far too occupied with problems at St Bernard's but there is a labourer at KGV and at various times the upgrading of this post has been suggested so that he would be able to take responsibility for day-to-day repairs. However, the upgrading has not taken place and no one does routine repairs. Happily some of the families of the patients do part of the work and even look after the garden. I must again stress that patients in the long-stay ward are there as I said on a long-term basis and this runs parallel to Mount Alvernia and that the first thing that Government should consider is the upgrading of the post of labourer or providing a regular handyman for the KGV Hospital to improve day-to-day conditions. There have been suggestions on the part of the families and I have a letter here that a handrail should be placed along the corridors, leading to the outside to help patients and the relatives when they leave the building. These patients are usually quite sedated and could be at times confused. If one goes there one finds that often the patients have got to hold on to the walls to find their way out to the garden. Surely it is far more dignified to have at least a handrail on one side so that patients are able to be able to go outside without the help of the nursing staff. Let me say that a lot of these improvements would help the nursing staff in their work within the hospital. A ramp was built about four months ago to allow patients in wheelchairs to come out and be able to be taken home. This ramp unfortunately looks like a pyramid and it is impossible to take patients outside unaided. Again something could be done about this. Talking about wheelchairs, there are about six to eight patients who need that type of buxton chair. Apparently three new ones have been ordered but so far nothing has appeared at KGV. The present wheelchairs need to be replaced as the wheels and trays are falling off and constitute a danger to the patients. There are three chairs presently in use. Suggestions have been put to the families of the patients at this meeting by the Hospital Manager to improve conditions at the hospital and I am glad to say that this has already been started through the Mental Welfare Group and I suggest to Government that even though the Mental Welfare Group will be active in various ways and I even suggested them to write to GBC to see whether they can get some help from the Open Day at GBC. I suggest to the Government that from the small amount of the nearly

£7m which has been allocated to the GHA this year, some money could find a good home at KGV Hospital. The saga continues with a lack of physiotherapy treatment. At the meeting which I mentioned in June and I quote "the importance of having a Physiotherapist seeing patients on a regular basis was discussed. The Hospital Manager said that GHA was short-staffed at present and had a big backlog of work at St Bernard's. It was pointed out that irrespective of this, patients at KGV should be given some priority in order to motivate them and the Hospital Manager promised that as soon as they had adequate staffing levels something would be done about this. The Hospital Manager said that the Occupational Therapy Room was also being repaired." The Occupational Therapist goes to KGV for half a day on a weekly basis so please could the Hon Minister ensure that some consideration is shown towards these patients and could we have a Physiotherapist visiting KGV at least twice a week, say for the mornings only, surely that is not too much to ask. Mr Speaker, I hope I have expressed in the motion the reasons why action is required and now that we have Action Man on the other side, I hope that he will be able to help the Honourable Minister in her affairs. I really do hope that when the Chief Minister pays his usual visit to the Hospital in the New Year, he will have found some improvement in the conditions at KGV, after all he did say last year to the families of those that were there that improvements would take part this year and that by Christmas this year they would not recognise the place. Indeed if improvements do not take place they will not recognise the place!

HON CHIEF MINISTER:

Mr Speaker, the Honourable member I assume is making himself entirely responsible for what he has said which as far as I am concerned is a complete fabrication. I have not spoken to the families of anybody or promised them anything. So he is making himself entirely responsible for the veracity of that statement. He should not be making statements here in the House unless he knows them to be true.

HON DR R G VALARINO:

Mr Speaker, I accept what the Chief Minister has said. Will he also accept that he did visit KGV at New Year.

HON CHIEF MINISTER:

Mr Speaker, I have been visiting KGV for the last sixteen years every year since my wife has been working there for sixteen years and every year I go there because she is at work and not at home at Christmas. The Hon Member does not know what he is talking about.

HON DR R G VALARINO:

Mr Speaker, I accept all that.

MR SPEAKER:

The point is, can you substantiate the statement?

HON DR R G VALARINO:

Mr Speaker, I have been told of this and I mean the problem lies in fact that the Chief Minister has a lot of work elsewhere and he could easily have had a discussion with one of the families there and have forgotten what the discussion was about.

HON CHIEF MINISTER:

No, no. The Honourable Member knows, Mr Speaker, the kind of memory I have and I am stating that I have not made any promises to any family of anybody in any street, in KGV in 1989 to the effect that the place would be transformed in 1990. That is a statement of fact that I am making and since members of the House who make statements in the House are responsible for knowing that they are telling the truth, I am telling the Hon Member that I know I am telling the truth and he is acting on hearsay, so he should not be acting on hearsay when I am telling him it is not true.

HON DR R G VALARINO:

Well Mr Speaker, that is the information that I have been given. If it is wrong then I am sorry but I am only acting on information received. So to sum up I would say that the Minister has some months to put the condition there in a proper and fit state and I am sure the families would be only too pleased. In that last letter written to the Hospital Manager thirty families signed the letter. Mr Speaker, for all of us please do something about KGV. Thank you Sir.

Mr Speaker proposed the question in the terms of the motion moved by the Honourable Dr R G Valarino.

HON MISS M I MONTEGRIFFO:

Mr Speaker, first of all I am grateful that I am being allowed to sit down and even though I am in pain because I fractured my ankle the other day it is a great pleasure for me to be here today to be able to defend the motion that the Honourable member has brought to the House. First of all, Mr Speaker, let me tell the Honourable Member that I can prove to the House that KGV has in no way been forgotten by the GSLP Government. On the contrary, Mr Speaker, I can show this House everything that we have done since we came into power in 1988 to improve conditions at KGV. Now, Mr Speaker, after having heard the Honourable Member speaking about KGV I have no option but to remind him of what were the conditions prior to my Government coming to power and then we can compare my performance as Minister for Health to everything that was happening before the GSLP came into power. I am in no way admitting that the Government has

been able to correct everything that is wrong with KGV, Mr Speaker, on the contrary I have been honest because we inherited the KGV Hospital in such condition, Mr Speaker, that when I visited it in 1984 officially I wish the Honourable Member could have been there and have seen my face and the concern that I had when I saw KGV in 1984. Mr Speaker, the Honourable Member has brought a sort of a shopping list here to the House of Assembly about things that he thinks should be corrected at KGV and I am proud, Mr Speaker, that with the help of the staff, which I am glad he has acknowledged, progress has been made to be able to answer the Honourable Member that the problems that we inherited have already been rectified or are in the process of being rectified and we have an on-going programme to rectify all of them Mr Speaker. This Government has proved, and in all my budget speeches, Mr Speaker, I have been able to inform the House of everything that the GSLP is doing as far as the KGV is concerned. Mr Speaker, one thing that I wish to remind the Honourable Member is what happened prior to our coming into Government. The Honourable Member is aware that the last time that the AACR did any major significant work to KGV happened to be 1978. Is the Hon Member aware of that? Is the Hon Member aware that they started painting the wood in KGV in 1978 and then they removed the painters and they left the wards unpainted and unfinished and then after a month the wards started flaking and the painting remained unfinished. Is the Hon Member aware that in 1981 and 1982 the roofs in KGV started leaking. The first floor of KGV was completely flooded in 1982 and they did some repairs, Mr Speaker, but not enough, because when we came into power we had to put that right and we found the wards unfinished and unpainted. But again, I wish to stress the point that I am not in any way trying to give the impression that this Government is trying in any way to substantiate the position now as to what it was before. I am now going to give the Honourable Member a list of everything that we have done and when he talks about for example the primitive conditions of KGV then yes I agree with him but he must understand that this Government in two and a half years, Mr Speaker, has already started rectifying all those primitive conditions. But those primitive conditions were created by his Government not mine. I have a list here, Mr Speaker, of what his Government in twelve years did when they were in power in the time-scale of twelve years as I said before they painted the wards they made an attempt but they never finished it. They did the same with the roofs, Mr Speaker, patch-up work and the roofs started leaking and we, the GSLP, had to put it right and the other significant work they did in KGV, Mr Speaker, was to instal iron bars in the first floor of the building after a patient had tried to commit suicide. So we have twelve years where his Government when they were in power did practically nothing to improve conditions at KGV. Now Mr Speaker, I will tell the Honourable Member what we have done in the time-scale of two and a half years to improve conditions at KGV. Mr Speaker, because of the patch-up work that they did on the roofs we have had to spend a considerable amount of money but we have repaired

all the flat roofs. We have repaired the roofs and secondly we have refurbished all the staff areas in KGV. The Hon Member mentioned the sewer system. Well we have had to treat the sewer system because of blockages, Mr Speaker, but the Honourable member comes here and he complains about the blockages when they have already been fixed and rectified. Another thing we have done, Mr Speaker, is that we have refurbished the kitchen which was in a deplorable state. We have painted it all and we have degreased it. Again the Hon Member talks about the salt water system. Well that has already been repaired. We have carried out the replumbing of the salt water systems and they were not even functioning properly when we came into power, Mr Speaker. The lower wards which he is complaining about and the upper common rooms, Mr Speaker, have all been painted, and why? Because they were left unfinished. That has all been taken care of Mr Speaker. Then we built an extension to the garage, Mr Speaker, and we even erected a security gate which was required and the ramp that he is complaining about has been erected and it is a question of judgement as whether the ramp is in a condition that he feels is appropriate or not. As far as the people and the experts are concerned the ramp is there and we have provided it. A ramp that was required for years. Well the ramp is there already. Another problem we had which we have also rectified is building a fence surrounding the housing estate near KGV Mr Speaker. At this very moment the workshop and the kitchen for patients is being completely refurbished. So how can the Honourable Member come to the House and tell us that KGV is being ignored. That is nonsense Mr Speaker. There was a programme drawn up months back to refurbish the toilets that the Honourable Member was complaining about because they were in a very dilapidated state. Of course they were in a very dilapidated state. I have already told the House why, Mr Speaker, because when his Government was in power they did not do anything about it but we have. The last thing I want, Mr Speaker, is for the Honourable Member to try and come to the House and say the toilets are being done now because he brought a motion to the House. I will not accept that. Because it is an impossibility as everybody will understand, for anyone to suddenly realise that the Hon Member has brought a motion to the House and call up the contractor and say "come in and to do the work because the Honourable Member has brought a motion to the House". Nobody will believe that, Mr Speaker, because that is an impossibility. We have not only spent record sums on the medical services but we have an on-going programme, Mr Speaker, and I am giving a commitment to the House of Assembly that every year KGV will see improvements. Again, Mr Speaker, when we are talking about the toilets and the bathroom areas, this is something that Management had agreed months ago and now I am glad that the Honourable Member is acknowledging that the toilets have been done. The toilets were not even tackled when his Government were in office. Apart from that, Mr Speaker, we have done so many other things for KGV. We have bought new food trolleys. The old ones, Mr Speaker, were in such a state that when they used to arrive at KGV the food was cold. We have rectified that. We bought



a bus for the Mental Health Society. We have already ordered months ago special wheel-chairs for patients. The only conclusion that I can come to is that the Honourable member is trying to gain or is trying to score political points because even though I have said before KGV is not up to the standard that we would like to see we are nevertheless doing so many improvements, Mr Speaker, that compared to the performance of the previous Government we are very well ahead. I think that people and the Honourable member should be glad that all these things are occurring and the Hon Member has admitted it in his speech. He did say that all these things were being done. They have been done and they are in the process of being done and they will continue to be done and I will give a commitment to the House, as I have done in all my budget speeches, that KGV in relation to all the priorities we have within the medical services will continue to have improvements Mr Speaker. I remember, Mr Speaker, when I was a Member of the Opposition and I used to ask questions about KGV or with the Health Authority the Honourable Mr Featherstone used to say a phrase "las cosas de palacio and a despacio". He used to say that Mr Speaker, when he was in Government. Well that must have been the case with the AACR. With the GSLP, Mr Speaker, we are working at a tremendous pace. The Member was talking about the Physiotherapist and I am informed by the professionals dealing with KGV that we have a Physiotherapist and an Occupational Therapist and they are the ones best suited to be able to tell the Government what is the way ahead and the way ahead as far as they are concerned is that if St Bernard's does not have the services of an Occupational Therapist, then it is better for the Occupational Therapist to be divided between KGV and St Bernards. As far as they are concerned the arrangements are working very well and the only reason why the Physiotherapist was not visiting KGV, and the AACR when in Government did not provide a Physiotherapist service to the KGV like we are providing, is because an individual decided to leave the service and to go back to the UK. The Physiotherapist service is being provided at KGV Mr Speaker, so therefore I think that after everything I have said and the Honourable Member must agree with me that improvements are being carried out. I think that the Honourable member should agree with me that he should be glad that there is a GSLP in Government and not an AACR Government because otherwise I am completely convinced that had we not come in and rectified all of the areas that he has pointed out KGV would be in a worse condition than it is today. I therefore surprises me that the Hon Member should expect in two years to be tip top when in actual fact the AACR had twelve years to be even more concerned about KGV because of the position that it was then in. The Hon Member should have put pressure on his colleagues to do something about KGV. I am completely satisfied and I am proud of the fact that the professionals at KGV, our management team and my colleagues in the Government have given me the resources to improve KGV and that is something that everybody is able to see for themselves. So therefore, Mr Speaker, in view of everything that I have said and in view of the improvements that have been carried out at KGV

as well as those that are in the process of being carried out and will continue to be carried out because of the on-going programme, I hope that Honourable members will agree with me when I move an amendment to the motion, Mr Speaker. First Mr Speaker, I would like to delete the words "is concerned about" where it appears in line 1 and substitute the words "notes the improvements that have been made to the" and delete all the words after the word "provided" in line 3 and substitute the words "since April 1988 and welcomes the commitment of the Government to continue to improve the situation".

Mr Speaker then proposed the amendment in the terms of the Hon Miss M I Montegriffo's amendment.

HON A J CANEPA:

Mr Speaker, may I first of all say that I wish the Honourable Minister a speedy recovery and she will be able to resume all her activities and in particular her sporting activities. The Honourable Minister is of course in an advantageous position over us, certainly over me, in that she has access to files and can come here and tell us her interpretation of what she has been told and her interpretation of what she has been told was done in 1978 and in 1982 I do not have access to that information but I definitely recall and 1978 must have been the correct date, because I remember that it was about a year or so before he retired from public life, that the then Minister Aurelio Montegriffo had been responsible for carrying out considerable improvements to KGV. I also remember that in the time of Mr Brian Perez, when he was responsible as Minister for Health, further works were carried out there. The full extent of those I do not know and I have no means of checking, so as I say the Honourable lady is in an advantageous position. But why should she wonder about the fact that my Honourable friend Dr Reggie Valarino thinks it necessary to bring the matter to House. He has a duty to perform as a member of this House and the duty that he has to perform is to take on board grievances that are put to him by members of the general public and to act accordingly, and that is what he is doing. He is fulfilling the constituency functions for which he is elected to this House. If so much has been done in the last two and a half years, if everything in the words of the Honourable lady has been taken care of, then why is it that the families of patients feel it necessary to complain. If all areas have been rectified and if all this has been done and the Honourable lady said that all areas mentioned by the Honourable mover had been rectified. If that has been done, if that is the case and if all this has been done at a tremendous pace, why is it that the families of the patients are not satisfied with the state of affairs. The fact is that they wrote to the Honourable Minister in June 1990, bringing to her attention a number of complaints and that that letter was followed up in September 1990 with another letter to Mr John Cortes also highlighting in that letter their grievances and telling

him that they were going to pursue the matter further. That they were going to take the matter further and what they did was that they approached my Honourable colleague and reserving the right to make matters public were the words with which they concluded in the letter to Mr John Cortes in September 1990. Now given that situation, we are acting responsibly and the duty that we have to people and thirty families took the trouble of signing a letter two months ago so everything cannot be that tickety boo, Mr Speaker. At least not in the estimation of the people concerned and therefore we cannot support this amendment and I wonder if the families of the patients were here today, whether they would vote with the Honourable lady and with members opposite in support of that amendment. That would be the test. I very much doubt it.

HON P C MONTEGRIFFO:

Mr Speaker, I have an interest to declare in that my father is the Superintendent of KGV and I do not think that it would be proper of me either to express a view on a matter so directly affecting the facilities. Accordingly I will abstain on the motion and the amendment entirely.

MR SPEAKER:

Any other member wishes to contribute?

HON J C PEREZ:

Mr Speaker, it is obviously unfortunate that sometimes one finds oneself looking at the position of the mental hospital in the light of having had relatives interned and in looking at the context of the Honourable Mr Valarino's motion and in looking at the way that the views of relatives have been treated in the past, because one has to go to the past, Mr Speaker, because one is comparing twelve years of AACR Government with two years and eight months of GSLP Government. It is therefore right to compare. Because it is rather hypocritical to have been acting for twelve years in a certain manner and then to act in a different manner when one is on the Opposition benches. The views expressed by relatives of patients or anything else these are taken on board by the management, and I am not saying that in the past they might not have been taken on board or they might not have been considered, but it is not always true to say that what a particular person might say of a situation is the true facts of the situation. The impression that the Hon Dr Valarino has given is that the KGV is a dilapidated shanty town or a slum and he has made this statement based on the views put to him by a couple of relatives of people who are patients there, that is where the responsibility of it lies. The Hon Member is giving an impression to the public at large which is not true because if that were to be the real situation of KGV then fine. We have a responsibility for two years and eight months that we have been in Government but the responsibility of that type of dilapidated situation should be carried by those who

administered KGV for the previous twelve years. My Honourable Colleague, Miss Mari Montegriffo has said that all her colleagues have supported expenditure in the Health Authority and the Health Authority has increased its expenditure particularly because of the dilapidated state of all the hospitals. A lot of things have been done at KGV and there is a programme of works and that the programme of works has been in force since April 1988 and improvements have been seen across the board in the Health Service and KGV has had improvement carried out and some more are being carried out at present. So I think we should look at the KGV in the context of all the improvements that have taken place in the whole of the Health Authority. Expenditure which in my view would have been unnecessary at such a high level if proper maintenance had been undertaken in all the buildings in the Health Authority throughout the twelve year term of the AACR in office. Now having said that one cannot ignore that when the Honourable Member stands up and says "we have a view that this is happening because two or three relatives have contacted me and they say that this is happening". One cannot ignore that and one has to look at their own responsibilities, as individuals, when they were Ministers in the previous Government. The scenario that the Hon Dr Valarino has painted today if that were true, and I am not saying that it is, because I think that he is pursuing this matter on hearsay without knowing the facts, a lot of the responsibility must lie with his Government and with The Hon Mr Featherstone when he was Minister for Health. That is the truth, Mr Speaker. Now on the question that both the Leader of the Opposition and the Honourable Mr Valarino have got upset about ie that they have put a motion rather than questions. The first thing that they should have done is to verify if what they have been told is true. Because a motion, from the short time that I have been in the House, is in my view is a very serious matter to put. You are either condemning some thing and you support that motion with facts or you put your own views and your own ideas on the matter and try to get support for it. However when you are moving a motion which fundamentally lacks substance, because Honourable Members are not sure of their facts then the responsible thing would have been, for the sake of the patients, the staff and for the sake of the relatives that approached him, to put a questions either in the House or outside the House rather than give the impression that what we are dealing with is a slum or a dilapidated shanty town instead of a Mental Home. That however has not been the case, Mr Speaker, and that is my Colleague, the Minister for Health Services, and the Government has been required to come here today and defend itself. I think that Honourable Members opposite have acted very irresponsibly in a very sensitive area such as mental care.

HON G MASCARENHAS:

Mr Speaker, very briefly. I am now convinced that Christopher Columbus must have been a member of the GSLP because if not the world seems to have started in 1988 and America would not have been discovered.

HON J C PEREZ:

For a lot of people it did, Mr Speaker.

HON G MASCARENHAS:

Mr Speaker, the Honourable Member has said a couple of signatures. I will give him a copy of the letter which is signed by 29 persons.

HON J C PEREZ:

Mr Speaker, if the Honourable Member will give way. I was not saying a couple of signatures. I said a couple of relatives. I have not, on purpose, made reference to the letter. Mr Speaker, if the Honourable Member reads the contents of that letter which calls for improvements then everybody signs.

HON G MASCARENHAS:

Mr Speaker, if a letter with 29 signatures is sent to my Honourable Colleague, and if the Hon Minister wants I will read the contents out to him if he is not aware of what the letter contains, and they bring these complaints to my Honourable Friend Dr Valarino, should the Honourable Member remain quiet? We can ask ten questions, Mr Speaker, but the motion that the Honourable Member has brought is I think a proper thing to do.

MR SPEAKER:

Well if no other member wishes to contribute, I will call on the mover of the amendment. I will remind the mover of the amendment and the mover of the motion that in exercising the final right of reply they cannot introduce any new matter into the debate. They may comment on what has happened already but they cannot introduce any new matter into the debate.

HON MISS M I MONTEGRIFFO:

Mr Speaker, can I say a few words on the amendment? I would like to mention something which perhaps Honourable Members opposite are not aware of and that is that when these relatives started complaining about certain conditions at KGV, the professionals met them. Not only did they meet them, Mr Speaker, but I can confirm to the Honourable Member that during those meetings the relatives of the families who are in-patients at KGV, and I do not want to go into detail Mr Speaker, because as the Honourable Member should be fully aware as a doctor that any information could be construed as a breach of medical ethics Mr Speaker. But I can confirm to the Honourable Member that after meeting the relatives the report that I had from the management of the Health Authority was that they had gone through every point that was raised and they apparently went away satisfied.

That, Mr Speaker, is information that my managers gave me. Not only were they satisfied but I was told that they were pleased that there was an on-going programme and that certain matters had not only been rectified but that more improvements would be seen at KGV. That is the reason why Mr Speaker, I have found it necessary to amend the motion. I feel that the amended motion portrays a fairer picture of the situation at KGV Mr Speaker. I therefore commend the amendment to the House.

Mr Speaker put the question in the terms of the amendment moved by the Hon Miss M I Montegriffo 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 P J Brooke

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 Dr R G Valarino

The following Hon Member abstained:

The Hon P C Montegriffo

Absent from the Chamber:

The Hon K W Harris

The amendment was accordingly passed.

MR SPEAKER:

I will ask on the mover of the motion to reply.

HON DR R G VALARINO:

Mr Speaker, I do not think that there is a great deal to say, I think my Honourable colleagues, the Leader of the Opposition and the Honourable Mr Mascarenhas have answered what the Minister has said. Let me just add that one of the main reasons why I brought this motion to the House and I quote "the Hospital Managers stressed several times during the course of the meeting that preference as regards repairs and the purchase of equipment would be given to St Bernard's before KGV. The families of the patients did not agree with this because the patients at KGV are long stay ones, there on a permanent basis and they should therefore be given priority in most respects. Thank you Sir.

Mr Speaker put the question in the terms of the motion moved by the Honourable Dr R G Valarino, as amended, 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 P J Brooke

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 Dr R G Valarino

The following Hon Member abstained:

The Hon P C Montegriffo

The following Hon Member was absent from the Chamber.

The Hon K W Harris

The motion, as amended, was accordingly passed.

HON P C MONTEGRIFFO:

Mr Speaker, I have the honour to move the following motion standing in my name:

This House:-

- (1) condemns the secretive way in which the GSLP conducts the affairs of Government;
- (2) Believes the Open Government and the democratic process involves continuous accountability to the public and not simply the submission to General Elections every four years; and
- (3) To this end demands from the Government a reversal of its present policy, by providing on an on-going basis a fuller and more complete disclosure of all matters touching the activities of Government and decisions that are taken."

Mr Speaker, the motion that stands in my name is a motion which clearly purports in its opening words as being one of censure. I, of course, do not come to this House, Mr Speaker, under any illusions as to the success that the motion is going to have in terms of the voting pattern of members in this forum. The importance of the motion, as I see it from this corner of the House as I said yesterday, is to place as a matter of record in the House of the Assembly an unacceptable style of Government and the unacceptable methods used by this administration in the conduct of the affairs of Government. Within the GSD Mr Speaker, we gave serious considerations as to whether the motion should be simply declaratory, in other words, that this House believes that open Government is desirable and to this end information should be given or whether it should be more properly one of censure. The view that we took, although I say the censure motion in a practical sense is academic, is that it was more honest and frank to come to this House and to put our views to the Government in the context of a clear critical assessment of the way they conduct the affairs of Government rather than by seeking to have unanimity in the House and that somehow the Government were then recognising the error of their ways as we saw it. So it is a frank exposition of the fact that we think that the Government is doing it wrongly and we think the Government, in its conduct of its affairs, is not acting in the best way for Gibraltar. The need therefore arises to heighten public awareness and to raise the level of public consciousness to the way this Government acts and the way it conducts its affairs, its official affairs. It is said, Mr Speaker, that power corrupts and I think that there is a dangerous message for all of us who aspire to Government and for all of those who are in Government and it is said, Mr Speaker, that absolute power corrupts absolutely and therefore as representatives of the people both in Government and in Opposition we must all be conscious of that. I do not make any aspersions to the Government at all in this respect because I include myself as somebody who would have to be mindful of this even in the context of an Opposition Member. As representatives of the people, Mr Speaker, I think we have to be mindful of how in a democracy the balances of power and the checks on power work and we have to be mindful of the extent to which it is often tempting for reasons which I will go into later to do away with some of those checks or to try to wittle away the balances which prevents power becoming corruptible or prevent power becoming something which is an element of suppression. In a democracy, Mr Speaker, we take the view that it is information which gives power. Information is power and information is the weapon and the shield with which Governments, Oppositions and general political forces and members of the public defend their interests. In the absence of information there is no democracy. If democracy means the simple submission to elections every four years then that is an analysis with which we disagree and which perhaps the Government may be at home with I do not know, but it is something that maybe this debate will elucidate. We think that that definition of democracy is not in accord with what a community in Western

Europe deserves. We believe that information is the mainstay of the democratic process, Mr Speaker, and that without information there is no democracy. The central issue therefore, Mr Speaker, is how, as a community, do we wish to be governed and I think that after two and a half years of GSLP Government, it is a central issue in this community which we in the GSD focus on, I must be frank, in our own political motivations. It is a central issue as to whether the style and methods of the Government are styles and methods which are in Gibraltar's best interests and it is proper therefor that in a motion of this nature our misgivings in this respect should be placed on record. The crucial question is in fact what is in Gibraltar's best interests and that is a crucial question from one very particular way, Mr Speaker, which is that the Government usually defends its lack of disclosure of certain information and usually defends its attitude on a number of matters precisely because it is in Gibraltar's best interests. I think it would be right to say that the Government, for example, alleges that giving information about the deals it is putting together on a commercial nature is not in Gibraltar's best interests because it jeopardises the best deal that can be obtained. The Government also takes the view that in the whole series of negotiations that it has with the public sector employees it is not in Gibraltar's best interests that disclosure should be made. I accept the Government's word, the Chief Minister's word, when he makes these points that the Government legitimately and honestly believes that it is in the best interests of our community for certain information to be kept confidential and not disclosed more widely than is presently done. Indeed we have a situation, Mr Speaker, where often recourse is had, in certain situations, of national interest that disclosure of certain information is not desirable because the Government alleges there is an overriding national interest which supersedes the usual principle that there should be disclosure in a community that values democracy. I think a confusion can arise as far as we are concerned in our analysis between the national interest in the broad sense of the word and the national interest in terms of the Government's national interest. I think there is a distinction there and we would allege that when recourse has been had to the best interest to Gibraltar and the best national interest of Gibraltar that all too often there has been a confusion between what is in Gibraltar's best interest in the broad sense and what are in the best interest of the Government. By definition we are of the view, Mr Speaker, that any type of Government that involves the need to keep certain things confidential must be the exception to the general principle that Government should, in a democracy, be open and accountable for its activities. Clearly we see situations where there is a need for confidentiality, in fact, Mr Bossano, I think, himself in the past in relation to foreign affairs used to indicate that for example he would not abide by the principle of confidentiality in certain things. There are certain things, Mr Speaker, that we agree have to be kept confidential. However what we are saying is that the balance has to be one which should be redressed in Gibraltar. We

think the balance has gone too far towards essentially making disclosure of information the exception rather than the general principle. I also want to say, Mr Speaker, in this debate that we recognise entirely the very serious and broad advantages of the style of Government which the GSLP has introduced and I do not say that tongue in cheek, I do not say it cynically in an attempt to hit under the belt, we accept that there are very very important advantages in wanting to govern in the way that, I think, this Government is embarked on governing. It provides the Government with a degree of flexibility which would not be there if a lot of information is given and it certainly provides a degree of rapidity of response in that if you do not have to inform people and you do not create expectations or create public debates then you do not have to answer queries. You are therefore able to respond quickly and, I think, this is important if I have understood and perceived the attitude of the Government from the Chief Minister correctly. It does not represent Mr Speaker, a diversion of energies, in other words, the Government can take the view "look chums we are very busy, there is a lot to be done, this community has serious problems, the last thing we have time to do is to play around answering Press Releases, debating matters ad nauseum and generally entering into the area of public discussion". That is the way that the Government as we see it operates. The view we take, Mr Speaker, is that those advantages are not advantages which should be expounded at the expense of the important principle of accountability and openness in information which is the mainstay of democracy. We think the Government is taking an excessively pragmatic view of the need to organise its matters and its activities. Not because we do not believe in pragmatism but because running a Government implies certain constitutional and political responsibilities which means that sometimes you have to move more slowly. You have a House of Assembly and you just cannot do the things without it. Usually in most democracies you even have backbenchers that you have to convince before you take the action that you may want to take and that is also an important check. In Gibraltar we are in the unfortunate situation, although I am not suggesting this House should be filled with backbenchers, that the executive is entirely made up of the members of the House that can pass something through with a majority. There is not even a check within the political party in power to provide a balance against what is an executive Government's role. We think, Mr Speaker, that the Government has gone overboard in its pragmatism and that perhaps in its enthusiasm to get things done it is doing it in a way which is not in Gibraltar's best interests because what is in Gibraltar's best interest, Mr Speaker, is that the issues facing us should be debated in a more open way than is the case at present. Much more information should be provided so that the public at large can make an assessment of the decisions that Government takes. I think the Government's attitude, in its pragmatism, calls into question one basic premise which it seems they cannot accept and that is, Mr Speaker, a premise which, at least I subscribe to, that in the Government of Gibraltar or in the Government

of any state, the Opposition has a role to play. In other words that there is a role for the Opposition in governing Gibraltar. The Opposition forces are not just political alternatives to be left out in the cold or to be left to seek support to come in and play a role at election time. That is not the role of Opposition politics in a democracy, as I see it. The role of an Opposition is an intrinsic part of Government and normally since, in fact, a Government is only the executive and you have need to have recourse to a House which includes backbenchers of the Government then the balance of power often does not lie simply between Government and Opposition but between the views of backbenchers generally on a particular issue. The supremacy of this House also is something which is called into question if you do not accept that the Opposition has a role in the Government of our community. You, Mr Speaker, perhaps a year ago when you were honoured with your present appointment described this House, as I think, the guardian of our democracy, as the central point of our democracy, which is a sentiment with which, I think, we should all agree. However when you say the guardian of our democracy I also say it is up to the Government of Gibraltar to see that it plays a proper role in what is done from here. Now as a matter of practical politics, if a particular Government has a majority, then it has the ability to see its way through the House. But that does not affect the principle, Mr Speaker, that this House has a role to play in the Government of a community. A role which is intrinsic and not just a political representation. There must be a balance of power not only in a national sense but a real balance in the broad sense of the word. In fact if there was to be increased Government activity, as I think there is, and I am prepared to accept, Mr Speaker, that this Government is moving at a particular pace and I think the arguments they use for saying that there is a need flexibility but if the Government is moving at a faster pace we should be meeting more often and not meeting less frequently. We should all be meeting more often because the activities and the decisions and the issues that this Government may be tackling and which in its own and legitimate consideration requires progress should come here by and large for endorsement and therefore if there is a contradiction if this Government prides itself in a high degree of Government activity we should be seeing is a more frequent pattern of meetings of the House not a lessening of the role of the House in a whole series of areas. One of the main features of this Government's style of government, Mr Speaker, is their attitude to the public debate as an important part of our democracy. We get the impression in this year's Estimates and no doubt other members on this side of the House have the same impression that the Government is generally reluctant to enter into public debate. The general typical reaction of the Government to most matters that become matters of public interest, certainly if they are raised by Opposition parties, is to keep silent. It just does not exist. Somebody says we are very concerned that there is a problem with eggs and you are expected in a democracy to say "well yes, you may be concerned but frankly we think you are wrong for the following reasons". But

the Government's attitude is to say "Ignore it it does not exist". Now we think that attitude is just not helpful, healthy or desirable in a community. I accept, Mr Speaker, that the Government may say "what we are trying to do is to make as redundant and as pointless the contribution of the Opposition to the affairs of Gibraltar". That in itself is a disservice to the fact that we have to represent certain people in whatever minority fashion. There is an element of representation constitutionally accepted in the structure of the House so it is a disservice. I stand to be corrected, Mr Speaker, but only three or four days ago when the Transport and General Workers' Union made its call on the safety of workers in the construction site and in fact the AACR came out, I think, supporting that stand there has been no public explanation from the Government saying "Well look TGWU we think you are wrong because we are doing a, b, c, or d". Now no doubt, Mr Speaker, the Chief Minister or some other Minister that may be involved may no doubt have met Mr Netto already and discussed the matter with him. Or it may be the intention of the Government to do that. What I am challenging is not that they simply ignore the issue but what I am challenging is that they appear to have an intrinsic abhorrence of the concept that matters can be debated and should be debated in a public fashion and that if a Transport and General Workers' Union that represent such important interests in this community have felt it legitimate to publicly express a view rather than just going to see the Government privately, the Government should respond to that public debate because the community as a whole is entitled to see, at a public level, how the arguments develop and what the position of the Government is in relation to criticisms that are specifically raised. Otherwise you have an unbalanced approach to democracy. You have people complaining and you have people raising matters with the Government appearing simply to want to remain silent. We have a situation as well, Mr Speaker, with the non-attendance of the Minister at a debate on Mount Alvernia. That may be one incident because I know other Ministers have attended debates but that that should happen is also hard to explain. That a Minister elected to Office with specific responsibility for a number of matters and that when there is a perceived and clear public concern over an issue and an important media, which is what GBC is in our community, arranges a debate and Government declines to go, even if there are reasons of principle, is frankly unacceptable. It is a symptom of the wider trend which I have sought to establish and which is that the Government seems to want to shy away from a public debate. I think quite frankly it feels two things. One it does not have the time to get involved in these things and that there are other priorities and two that if it gives more information it cuts down their room for manoeuvre. Those are the two reasons which I am prepared to believe, Mr Speaker, are entirely legitimate in their view but which I think are fundamentally flawed in that that is not the way that the Government should be operating within a democracy. I think the Government has made no secret about its attitude and that is why, I think, it is a question that it is important to put it down as a matter of public record. I think, in fact, the Government makes



no secret about its attitude because the Government has said on numerable occasions, at least I think the Chief Minister has, "We will not tell you this because we will go to the elections in x years time and we will be held accountable then. Let the people judge when we go to an election". I think the Government is frank to that extent that when certain things happen on this side of the House which we consider to be almost a provocation to the supremacy of this House, the Government is frank and says no we take a different view. You will recall, Mr Speaker, in mid January of this year when we had what I will refer to as a premature adjournment of the House, the Chief Minister standing on his feet and quite unexpectedly, at least as far as we were concerned on this side of the House, asking that the House be adjourned to some future date although there were Opposition business pending. The Chief Minister was candid enough, because I cannot fault him for his candour, to say not to the House but subsequently when the press wanted his comments that the House existed to do the Government's business. There was reactions to that and certainly we in the GSD reacted by saying that that sort of comment was completely lamentable. I think the Chief Minister believes that the House is here to do his work and everything else is icing on the cake that the House is here to get through the programme of the Government. I think that admission highlights the fundamental difference of view which I am seeking to emphasise today that this House does not exist to do the work of the Government but it exists partially to do the work of the Government but it also exists because it is where the sovereignty of the people rests and it exists to provide a degree of political balance which otherwise would not exist. Because quite frankly if the House exists to do the work of the Government there might as well not be a House at all. We might as well simply have a system which would be much more flexible and much more efficient of simply meeting once every four years as political parties when we stand for elections and whoever makes the right noises gets elected and the political parties would be resigned to playing their games outside the House of Assembly and there would be no need for going through what must be a very cumbersome process for people who do want to get on with the job. Clearly that cannot be what the House is about and I am not suggesting in seriousness, of course, that the Chief Minister says "the House only exists for the purpose of Government business" but what I am suggesting is that his comments "that it exists for that purpose" betrays his own concept that it exists fundamentally and primarily for that and which is something which we essentially disagree with. It has as one of its functions to do Government business but its primary function is to act as a check in the balance of power and to reassert the sovereignty of the people and to make sure of the proper governing of the community, in the broad sense of the word. I just want to make a small aside, Mr Speaker, which is a matter which I raise only because it is of interest to see what the approach of this Government is when on the one hand it says "We need flexibility and we do not want to get involved in public debates and we keep certain information to ourselves

because it is in the best interests of Gibraltar". Whilst it generally takes the view that the House is there to do the work of the Government at the same time it uses a party political newspaper "The People" to express very public views about matters of public concern and expresses those views in a way which one assumes, from this side of the House, to carry a certain official endorsement because that newspaper has always purported to be the mouthpiece or at least the political arm of the Government. It therefore seems odd in that situation that you have on the one side a certain reluctance officially to get involved in a mature and responsible open debate about issues affecting this community but on the other hand a political paper goes public with all sorts of accusations and all sorts of issues. There must be a distortion there, Mr Speaker, a disservice to the people because the Government speaks through "The People" to some extent but it fails to speak as a Government on those very issues which are raised here. That is just as an aside, Mr Speaker. The attitude that the Government has to the House, I think, is one of the things that I want to highlight at this stage, Mr Speaker. I have already alluded to it in the context of the premature adjournment but it is evident in many other things by the attitude of the Government towards questions because the general impression that I get when questions are put is not that the Government wants to give information and simply says "how much can I give", but "How can I get away with saying as little as possible". There are exceptions in the Government I must say because not all Ministers act in the same sort of fashion but the general trend is a reluctance to impart information. For example as a specimen of the type of thing I am talking about when I asked Question 111 of 1989, "Has the Government any plans to provide industries in Morocco and if so will it make a statement on the matter?" The Chief Minister you will recall, Mr Speaker, said "No Sir". Now that is not in itself the objectionable part, the objectionable part, Mr Speaker, is that I then say "Mr Speaker, I am relieved by that confirmation". In other words, Mr Speaker, "Thank you for confirming that the Government has no plans to set up industries in Morocco. The Chief Minister then betrays the way he thinks by getting up and saying "I would have thought Mr Speaker, that the Honourable Member would ask whether the "No Sir" was to making a statement or to setting up the industries". He missed the point there. What that betrays, Mr Speaker, is the good faith or otherwise with which the answer is given. What it demonstrates is that for the Chief Minister it was a game. It was a game of where he was either outwitting me or I was outwitting him. Now, I think, that I have developed a sense of humour whilst I have been in this House which before I did not have, Mr Speaker, but there is a time and place for when either debating and asking questions we should be serious. But the Chief Minister of Gibraltar gets up and says after I thank him for his answer "But have you not realised that maybe I have been catching you out and that what I was saying referred to the statement and not the question. It is a lightheartedly example, Mr Speaker, of a broader philosophy on how questions

and the request for information are dealt with. The general trend which the Opposition generally have complained about is the moving away from the powers of this House to pass legislation and things being done by regulations is another example of the style of this Government which I frankly also find unacceptable. Yesterday we had a very particular example where in a Companies Bill, all EEC legislation, which has enormous ramifications for the future of Gibraltar's Finance Centre and for the future of Gibraltar's traders because it is a vital component in our legislation, the Government took powers to allow it to implement all EEC legislation by regulation. That deprives the requirement for debate and it deprives the supremacy of this House. It provides, as the Chief Minister said, convenience and expediency. I accept that it is much more convenient and it is much more expedient. It will allow the Government to do these things much more quickly and in their view much more efficiently. It is in my view completely in breach of what the democratic process should be. There was another example of the candour of the Government when it comes to the question of the information it gives. A few weeks ago when I think it was on the issue of the future of the Moroccan hostel, the Government was quoted and I have a quote here. A Government spokesman said "that the Government does not discuss its plans as a matter of policy until a decision is made". That was a quote that was issued on behalf of a Government spokesman and carried by GBC. The Government does not discuss its plans as a matter of policy until a decision is made. That by definition is something that in our view is unworthy and which should not exist in a democratic process. In fact, major decisions are being taken without a degree of information being given. I do not want to bore the House with the question of the Joint Venture Companies all over again but we know that there is investment by Government in a number of activities that have nothing to do with Government. From the Heritage Building Society to Computers. The whole lot. They are putting Government time into these Companies without there being accountability in the sense that I understand accountability to imply. On the question of Accounts which should be a way of having accountability I have consistently argued that Accounts should be made public for the Joint Venture Companies and to this extent questions have been put in the House, and I think again, the answer the Chief Minister gave reveals the basic attitude and the philosophy of the Government. When asked Question 115 of 1989, "Will Government adopt as its policy the publication of Annual Accounts of all Joint Venture Companies in which it has an interest, either directly or through a Government owned company subsidiary?" The Chief Minister's answer was "No Mr Speaker, Government is not prepared to adopt such a policy unless it were to be introduced as a requirement for all companies trading in Gibraltar irrespective of ownership". The fundamental difference of view is that the Chief Minister perception is that he is running this Government as the Government of Gibraltar Limited. What I am saying is that the Government of Gibraltar Limited is not a concept which a democratic process embraces. The governing of a community implies running your Government in a way which, in fact,

is more cumbersome often less flexible and more time consuming than running it as a private enterprise but that is why Governments exist. If they did not, people would be able to do all kinds of things with land, etc that are in public ownership, as they wanted to without there being the sort of checks which are necessary. I know that the Chief Minister mocks this attitude perhaps because, I agree, they are imperfect but they are there to the extent to which they can be made work and they are there to be kept alive and the process from his own philosophy is to take an entirely pragmatic and an entirely commercially orientated approach to the entirety, to the totality of Government affairs. That, Mr Speaker, is not what Government is about. In fact if a Government normally believes that an activity which is run by a Government is inefficient, what it normally does is to privatise 100% and then it is no longer a Government activity. But the nebulous world that we inhabit is of Government ownership but the rules that apply are as if it was private and, I think, this gives rise to special considerations which are not being addressed to by this Government. We have a situation, Mr Speaker, with the disposal of land and the question of borrowing that to some extent may be linked with the investment being made in land. As a matter of public record, I think, it is important to highlight that it is a matter of concern that this Government's style of activities is such that it feels happy to dispose of major assets belonging to the people of Gibraltar and not make any disclosure of the details of those assets even after the decision has been taken because they believe that it is in Gibraltar's best interests that no disclosure should be made. I understand that their philosophy is that disclosure of details would jeopardise future sales because it would put people on notice generally of the terms that have been arrived at. Of course there are prices to be paid in giving information but that is what democracy is about, it is paying a price for being governed in a certain way. I do not think that the people in 1988 voted just for people to get on with the job and not to tell them about it and simply come back at the end of the four years and tell me how you did it. I do not think that people seriously voted for that. Another aspect, Mr Speaker, is the question of planning. Largely due to Government efforts, which I acknowledge, we are seeing a reshaping of the size and the borders of Gibraltar. The shores of Gibraltar are being altered and in that process of reshaping and in what may happen in the future, for example, with the East Side development why does the Government refuse notwithstanding its majority to accept a process of more open discussion and information to the public. A more open provision of information as to what the plans would be and what proposals they would entertain or are entertaining before decisions are taken. Is it not desirable Mr Speaker, that before decisions of that magnitude are taken that there be, in a democracy, an opportunity in a public debate for views to be expressed, for an exchange of impressions to be made, is that not the very life of the democracy that we cherish? We do not cherish surely just the fact that there is economic growth. Or the fact

that we live well. The fact that thank God in Gibraltar we do not have much unemployment and the fact that we have a close-knit community should not just be cherished in isolation Mr Speaker, we should feel that we are involved in and that we are being kept informed about the decisions that are being taken and about the thinking of a Government at any one time. Mr Speaker, the Chief Minister has on more than one occasion, and yesterday he reminded us all about his passion for Italian medieval literature and in particular the works of Machiavelli and yesterday whilst he drew attention primarily to the military contributions that this gentleman has made to Italy and the world no doubt the references in the past may also have been to do with other works and to the wellknown view held by Machiavelli that the means are justified by the ends and that at the end of the day if you want to get to a certain point you are justified in the manner as long as the ultimate target you arrive at is one which is legitimate. I do not know to what extent the Chief Minister's passion for Machiavelli encompasses also an agreement with that philosophy but certainly it encompasses an agreement for the philosophy on his military views because he said that Machiavelli's views were still of relevance today in that people fighting locally in a territory would fight with more conviction than people who are mercenaries or were imported from outside. It does seem to me that the attitude of the Government is very much that the ends would justify the means and if that is the attitude, and even accepting and I do so honestly without any element of cynism Mr Speaker, that if that is the view that the Government takes legitimately and it feels it can do things legitimately this way then it is nonetheless a view which I say is not in Gibraltar's best interests. It is not how we should be governed and it is not how a community of our size deserves to be governed. In conclusion, Mr Speaker, what I have sought to do today is to perhaps highlight as we see it the differences of approach, the fundamental differences of approach, in how the Government of this community should be conducted. We have done so on the basis on attempting to recognise the way which the Government brings to its own assessment of how they feel as a community we should be governed but we bring this matter with a very clear message that we utterly disagree and because we utterly disagree and because there is an inability to, in fact, just keep chipping away in the pretence that things are going to change, we have thought it important to place as a matter of record the views that the GSD feel require placing squarely before the House. I end my motion, Mr Speaker, with the somewhat cocky demand. I say cocky inasmuch as it is one member against fourteen or fifteen so it is a somewhat hopeful demand that the Government should reverse its present policy by providing, on an on-going basis, a fuller and more complete disclosure of its activities. I am under no illusions as to the fact that that section of the motion will not be passed as it stands but I would request the Government to take cognizance of the price that I think that, as a community, we are paying for the style of Government and for the way that decisions have been taken. If the Government believes it enjoys a wide support in the

community, although I may have other views, that it should not be afraid to give information and to introduce a method of Government which is much more accountable, safe in the knowledge that it would be able to persuade people as successfully as they did in March 1988. If they have that conviction there should be no problem with their introducing a more liberal and open style of Government activity. I commend the motion to the House Mr Speaker.

Mr Speaker then proposed the question in the terms of the Honourable P C Montegriffo's motion.

HON CHIEF MINISTER:

Mr Speaker, I shall be the only one answering for the Government.

HON A J CANEPA:

And I, Mr Speaker, will be the only one speaking for the Official Opposition.

HON CHIEF MINISTER:

I have no objection to going ahead of the Leader of the Opposition but, of course, I will ignore everything that he says because I will not be able to pre-empt what he is going to say and therefore only be able to answer Mr Montegriffo.

HON A J CANEPA:

I understand what the Hon the Chief Minister is saying and hope that he also understands the view that we take. Here, Mr Speaker, we have a motion of censure from a Member of the Opposition, who is not a Member of the Official Opposition, a motion of censure against the Government. We think that the Government has a duty, an obligation, to defend itself, to answer the motion. We have made up our minds regarding the motion, we know how we are going to vote but we think that before we make a contribution we should hear both sides. Not, Mr Speaker, because hearing both sides is going to help us make up our minds, because we have already decided. We however think that the Government should answer a motion of censure coming from an Hon Member of this House who works on his own, who has not consulted us and has had nothing to do with us in bringing this motion here. We think the Government should answer and then we should intervene. Period.

HON CHIEF MINISTER:

Fine, Mr Speaker. It means that I am not able to deal with any new points other than the one raised by the Hon Member opposite.....

HON A J CANEPA:

Mr Speaker, if I raise any new point to what the Hon Mover has done I will give way but my intention, at the moment, subject to hearing the Hon the Chief Minister, is to keep broadly within the framework of the motion and the points that the Hon Mover has made.

HON CHIEF MINISTER:

Mr Speaker, like the Leader of the Opposition, we are taking this as a censure motion. Although, in fact, the introduction of the motion by the Hon Mr Montegriffo has not followed what would normally be a censure motion, from my experience in this House since 1972, because it has appeared to be an academic debate about political theory starting or ending perhaps with Machiavelli's theories which incidentally he got wrong. So clearly he has not studied Machiavelli to the same depth that I have. Although I am a great admirer of Machiavelli's writings, what he ascribes to Machiavelli is not, in fact, what Machiavelli wrote. It is what most people, who have never read Machiavelli think he wrote. The Hon Member started off by saying that the GSD had gone, obviously internally, as to how they should tackle this matter and come up with, what they considered to be, an honest and frank approach. Well, of course, the GSD is not represented in this House. The GSD has no right to put opinions, honest, frank, dubious or any other kind, because the GSD did not exist in 1988 and therefore if the Hon Member is telling us what he thinks people voted for in 1988 when we stood for election then he must know that what people did not vote for in 1988 when he stood for election was that he should leave the AACR and form a new Party. They did not vote for that Mr Speaker. It is a matter for him whether he does it or not and it is a matter for him whether he thinks he should do what I did in 1976 and which is to offer my resignation to the Party that elected me and said: "Look, the seat does not really belong to me now that I am an independent. If you want to I will resign and contest the bye-election". However Maurice Xiberras at the time turned down that proposal. But I did not really have the right to say anything in the House without the agreement of the Party that had put me forward as their candidate. However the Hon Mr Montegriffo might feel that it is perfectly democratic to stand on one ticket and then spend the next three years defending a different ticket and that that is consistent with parliamentary democracy. However that, Mr Speaker, is a matter of approach and philosophy and ideas and I certainly would not bring a censure motion to this House condemning him for having resigned from the AACR, which I think could well be passed, Mr Speaker, fifteen to one. Yes, fifteen to one because the rules say that the Financial and Development Secretary may not support the Government in a censure motion against the Government but it does not say anything about voting in a censure motion against somebody in the Opposition! The approach of the Member opposite, of course, stems from an analysis of what his role in this House is and I think where he is completely wrong is in not understanding that unlike other small communities like the Channel Islands or the Isle of Man or other places where, in fact, the Government is a collective responsibility, to some extent, of the whole of the Assembly, in Gibraltar we have had Party politics for a very long time. When I joined, in 1972, this House, Mr Speaker, my first experience of the way the

previous Party led by his continuing protector, Sir Joshua Hassan, the way that we interpreted the Constitution and the democratic process in 1972 was that although there was the first general strike in Gibraltar's history and the Opposition said this was a matter of major public importance which should be debated, the Government felt that it was wrong and that it should not be debated and they refused to have a meeting of the House for that purpose. The Government said that the House would meet when they thought that it should meet and it met in October.

HON A J CANEPA:

And there was a vote of censure.

HON CHIEF MINISTER:

Yes, Mr Speaker, which the Opposition are entitled to do. But what they are not entitled to do is to say that the Government should change its behaviour and stop behaving as Governments do and as Governments have always done and as they will always continue to do. Which is to exercise the prerogative of having the majority to give effect to their judgement. That is what people do when they select a Government. In our case, Mr Speaker, we do not do it very frequently, but if it comes to the crunch and we have to remind Members of just how big a majority it was in 1988. It was two to one, and I remember many many times in the years between 1972 and 1988, the sixteen years that I spent in Opposition, that a majority which was minimal was constantly being paraded by Sir Joshua Hassan who constantly stood up and said that he had got 7000 votes from 1980 onwards. Well, we could all be doing this all the time because all of us got 7000 votes and more. However, that is not the issue, Mr Speaker, the issue is that as far as we are concerned when we stand up and say we will not give you the Accounts or we will not answer questions on a particular venture, we are doing it within the letter of the law. In any case, since we as a matter of policy have made clear that the priority for the Government is to get things done in these four years then the Hon Member is right. The academic exercise we are engaged in now could have had two effects either we could all have missed our lunch, which is what we are doing, or we could have missed an afternoon's work, which is more important than your lunch I am afraid, and that is why we are not missing an afternoon's work but missing lunch. However, that is fine. If we have to go into an academic exercise and go without lunch we will do it. But if we have to go into an academic exercise and sacrifice one afternoon of Government work of eight Ministers then the answer is that we think we are paying a price, which people will be paying in Gibraltar, and which we do not agree with, that people prefer to have constant on-going debates, and that there should be on-going debates, where nothing happens. In fact, it is from the experience of the AACR, in Government, that we ourselves have decided, as a matter of policy, that

there are certain things that we do not think are good for Gibraltar, which they tended to do, which was to produce models of things which then did not happen and it got to a farcical stage when nobody believed the models anymore. We do not need to have a debate, Mr Speaker, on the East Side Reclamation because we have been debating it for the last twentyfive years, what we need to have is the East Side Reclamation happening that is what we need. That, Mr Speaker, is what will make a difference to the people of Gibraltar and that is what will give them security for the future. That is what will enable us to produce all the things that the Opposition ask for. The Opposition comes to this House and says: "What are you going to do about the elderly people? What are you going to do about the KGV?" Are they asking us to do things that cost money or are they asking us to spend a lot of time spouting hot air and not get anything done? I imagine that what they want is to see the things done and at the end of the day Gibraltar or any other community, in any other part of the world, cannot escape from the essence of political decision making which is about allocating resources. Now where there is a genuine role to play in Government and Opposition, and which is certainly the role that I tried to play for many years in Opposition and sometimes was successful in doing so, is in saying to the Government: "I think your priorities in spending resources are wrong and I would like to have a chance to persuade you to alter them". I sometimes succeeded. There were occasions by logical argument I persuaded the Government that they would do better to spend more money in one direction and less money in another direction. I never asked them to spend more money in every direction because it is simple arithmetic that if you only have £70m to spend there is no way that you are going to spend £80m. However, within the £70m it is a political judgement, exercised by Ministers, which bit of the competing demands in our society get satisfied first. I think that it is a legitimate role for the Opposition which, as I have said, I used to carry out sometimes with success to try and influence from the Opposition those things which Members of the Opposition think the performance of the Government can be improved. I often used to tell them that in carrying out that kind of responsible opposition role I was perhaps being my own worst enemy because the better advice I gave them on how to better their spending the better chance they got of being returned into office. Maybe, Mr Speaker, that is why they do not do it because they do not want that to happen to us. I do not know. But certainly, Mr Speaker, we think that to say power corrupts and absolute power corrupts absolutely and presumably time in power and absolute power corrupts absolutely even more absolutely. By which definition the most corrupt man in Gibraltar is one whose name we all know. The man who gives most support to the Hon Member opposite is the most corrupt man by that definition because he is the man who has been longest in power and has exercised that power absolutely.

HON P C MONTEGRIFFO:

That is not the point that I was making.

HON M A FEETHAM:

The Hon the Chief Minister has not given way. Will the Hon Member please sit down.

MR SPEAKER:

Order, order. If the Hon the Chief Minister does not give way there is nothing I can do.

HON CHIEF MINISTER:

Let me say, Mr Speaker, that I do not consider that man to be corrupt and therefore I do not consider that the Hon Member's philosophy and analysis and views are correct. It would follow from what he has said, I am just pointing out to him that, in fact, and before I pointed the finger the Hon Member said "absolutely". The Hon Member only regretted this when he realised at whom the finger was being pointed. I am not saying that the Chief Minister who was in office for forty years was a corrupt man but I am saying that he exercised power with a degree of absoluteness which you need to go back to the time of Queen Victoria to find a parallel. That I am saying from personal experience and it did not seem to do him any harm. Therefore I think, the Hon Member should consult him perhaps more frequently before he makes these analyses. Since we all know from remarks that reach the press that there are indications of continuing contact. I do not know whether that means that the Hon Member feels that he immediately has to go out and give a Press Conference to rebut what the press have said. What I can tell the Hon Member opposite is that we do not feel that it is a matter that we need to make public statements every time that somebody decides that we should make one. We think that the role of the Government is that it makes a public statement when it feels that it is the right time to make it but not because someone else decides that we should be making it. We do not make any apologies for this style of Government, Mr Speaker, or the way we are conducting the affairs of Gibraltar. We think that we are conducting them very well and we think this is what people voted for in 1988 and we think that people are happy with the way we are doing things and will vote for us again. However, at the end of the day it has to be made clear, Mr Speaker, that we presented ourselves to the people of Gibraltar and when we accepted working the hours that we are working to produce the results that we are producing. We have to put ourselves forward on the basis that we do not pretend to be perfect and that we never make any mistakes or doing everything right. We are, after all, only normal human beings, who do make mistakes, but no Government anywhere in the world can, in fact, expect to do anything other than that. I think the



question of whether we are looking for more flexibility or less flexibility is not the issue. As far as we are concerned we take a great deal of trouble, in fact, to inform and consult and take account of the views of the people who are going to be directly affected by the action. We do that, I can assure the Hon Member, more than was ever done under the previous administration from my personal experience, again, of sixteen years. We think that that is the proper way to go about it. Not, Mr Speaker, saying let us have an open debate and a lot of people who know nothing about it all chip in their tuppence worth. No. We think if we have a situation of a problem in a particular area, you sit down with the people in that area and you go into the problem honestly with them and try to persuade them of what is the right solution or you give them an opportunity to persuade you. So we believe in involvement and we are involving people constantly but we do not go round parading it because we do not think that a necessary ingredient. I think there is perhaps one area which is the last part of the motion which the Hon Member has now changed from demanding to requesting, where he may have a point, maybe we need to do more to give wider publicity to all the good things that we are doing and since clearly his delivery of his censure motion has been anything but hostile and since he has been telling us that this is a frank and honest effort to improve the quality of life and the involvement of our citizenship in Gibraltar and not because GSD wants to replace GSLP in Government, and I believe everything he tells me, in the light of all those things I will certainly do what he has suggested, which is give serious consideration to his request and see what steps can be taken to go beyond what I am already doing, appearing on television at six-monthly intervals to give an account of our performance. As the House is aware, apart from the normal broadcast at the beginning of the year I have now been appearing around the beginning of the summer and around September or October giving an account every six months on where we are going with our economic programme which, of course, let me remind the House, the Member opposite stood for election on the basis that there was no need for such an economic programme because although he is now critical of what he considers to be insufficient involvement in the decision making process to carry out a programme, it is a programme which he fought the election that it was totally superfluous. That is what he asked people to vote for. The Hon Member told people, during the election campaign, that the entire economic programme of the GSLP was a dangerous experiment and unnecessary because all that needed to be done was fine tuning. Well, Mr Speaker, to do fine tuning one does not need to have Press Conferences, participation, debates in the House, one does not need any of that. Fine tuning means keeping everything as it was in 1988 and doing minor adjustments. The Hon Member got voted to fine tune on that side of the House. We got voted to introduce a radical programme of change on this side. As far as the Hon Member is concerned he is opposed to that radical programme. Unless

he has actually become convinced, in the last two and a half years that what he preached in 1988 was wrong, that we do not need fine tuning and therefore we need a Land Reclamation Programme, which was in our manifesto and which we have implemented, a Building Components Factory which was in our manifesto and which we have done. All these things in our manifesto we have done, some we have not done but if we had come here and debated them it would have been ridiculous. Because if we go to the people and say: "We believe that there is a need to increase the wealth of Gibraltar by 50% in four years and we have a programme to do it", because, Mr Speaker, you will recall that we revealed it at the time of the election. This business of me being secretive is not new to me in Government, I was constantly being accused of that when I was in Opposition. The AACR in Government used to accuse me of being too secretive in Opposition because I would not reveal my secret economic plan and which they deduced was secret because it was non-existent. Now, Mr Speaker, that it is public they cannot say it is secret because it is non-existent, now they have to say it is secret because they do not know how it works. That, of course, Mr Speaker, is the key. The Hon Member opposite is not just concerned about what we are doing and why we are doing it, he is concerned about how we are doing it because if you take a random selection of questions that he has asked in this House, and not the ones that he picked in his contribution, he will find that he certainly gives the impression that even when I go to great lengths to explain to him how we are doing it he still does not understand how we are doing it. Because in the supplementaries that the Hon Member puts, and I recall a series of questions that he asked me on the economy and on how we measured GDP and on output per capita, it was quite obvious from the way that the questions were phrased that he did not have a clue of what he was asking and he did not understand what I was answering. Now that is alright that the Hon Member can say that it was because I was giving an enigmatic reply because I am secretive rather than admit that it was out of his depth. The Hon Member must understand that much as I like him and would like to keep on giving my time to instructing and developing his personality and knowledge in these matters it does take me away from important work. The Hon Member, Mr Speaker, recognises that in our desire to do more and produce more and get better results we tend to see deviations from that target as a heavy penalty. If we were doing less ourselves and leaving things to the traditional system, to which my colleague referred to earlier quoting the Hon Mr Featherstone, ie "Las cosas de palacio van despacio", then fine, whilst they are going slowly we can all be debating the issue but then we would have spent four years having had lots of debates and having got very little done. We think on balance, Mr Speaker, that if there is a choice between those two routes then we have no doubt which is the better road for Gibraltar, to produce results, and we have no doubt which is the road that most people will want us to take. We are



convinced that it is on the ticket in which we stood and that, in fact, if there is anything that is fundamentally at odds with what the Hon Member has said and the motion that he has brought, it is that it is totally inconsistent with the concept of parliamentary democracy. To censure a Government for doing what it said it would do. Governments, Mr Speaker, do not get censured for that. If we have a policy with which the Hon Member disagrees he is entitled to criticise us for it but what Governments get censured for is for doing the opposite of what they said they would do when they were in Opposition. We cannot be censured for that because, as he himself has recognised, we are quite frank, quite open about what it is that the strategy of the Government is. We made it clear from day one. Some people may agree with us and some people may not but as far as we are concerned two-thirds of the people in the last election agreed with us and one-third did not. The one-third that did not may grow more or get less and can still continue to disagree but what they cannot say to the Government, as far as we are concerned, is that they are censuring us for failing to do something because that, Mr Speaker, is what censure motions are for. We went into the election to carry out a programme and that programme requires the style and the methodology that we have introduced and we intend to carry on with it.

HON A J CANEPA:

Mr Speaker, we are going to support the motion. When we were discussing earlier this week our attitude towards the motion I made some notes on the paper which the House circulated. The same sheet of paper on which the motion is spelt out and I made some notes which are in black ink. Today I have made some notes whilst listening to the Honourable mover and then to the Chief Minister and I have made a few notes in blue ink. What is interesting is that what I am saying in the first half of my contribution deals more with my reaction, our reaction, to what we have heard than what we were already thinking about the motion. I think that I did the right thing in speaking after the Chief Minister and in listening to him. I find from the notes that I have that the analysis and the conclusions that I had reached as to the manner in which the motion had been presented by the Honourable mover and the conclusions and analysis we have made are very much in line with what the Chief Minister has said. I did know that when the Honourable mover launched his party he went on record as describing both the Chief Minister and myself as captives of the siege mentality. Perhaps today when he exercises his right to reply he may go even further having regard to what he has to say about the Chief Minister and Machievelli and he might well say that the Leader of the Opposition is anti-diluvian. I think it is a fair criticism of the manner in which the motion has been presented to say that the language used by the Honourable mover and the manner in which he has presented the motion falls far short of the wording of the motion which is a motion of censure. In paragraph 1 he condemns the Government and in paragraph

3 demands certain things from the Government. But what does the Honourable mover do when he presents the motion? He does not condemn the Government and he tells the Government that he finds the way that they are doing or not doing and the secretive way in which they are proceeding and so he finds it unacceptable. Now, Mr Speaker, that is not the language of censure and that is not the language of condemnation. By all means come here with the motion and say, "the secretive manner in which the GSLP Government is conducting the affairs of Government is unacceptable, and then instead of demanding, he requests from the Government. So you either use the word request or call upon the Government to reverse their policy. The Chief Minister is correct in saying that his approach has been academic. He has minimised in the manner in which he has presented the motion and he has minimised the strong terms in which the motion has been brought to the House. This is a very serious matter because a motion of censure after two and a half years of the Government being in Office. There have been many occasions, in the eighteen years in which both the Chief Minister and I have members of this House, when motions of censure have been brought against the Government. My baptism of fire in this House was having to deal with a motion of censure, as Minister for Labour, because of the fact that there was a general strike two weeks after I came into Office. Me, compared to the giants of the AACR who were then in Government with me and compared, Mr Speaker, to the calibre of the members in your Government and to whom I had to answer here in this House. There was also a motion of censure by the Honourable Mr Bossano against me because I went to Bilbao when I should not have gone. That was the year after, October 1973. I honestly cannot remember many occasions in the intervening period for all our sins, as a Government, over so many years when either The Integration with Britain Party, the DPBG, the GDM or the GSLP felt it necessary to bring a motion of censure against us. So it is not a lighthearted matter in parliamentary terms. That is my only quarrel with the Honourable Member who brought the motion. Other than that I share the sentiments of the motion and in fact we have in many of our party political broadcasts and public statements over a long period of time been remarking on these matters. We have been commenting that in our view the Government has appeared to have a disregard for public opinion and for the public. Not for the public opinion that we necessarily represent, and I can see the point of view of the Chief Minister, that the Government is not obliged to react and make a public statement when we call upon them to do so. That is why on some occasions, when we have challenged the Government to make their views public on certain matters we have actually stated that we know that the Government were not going to reply. This has happened on two occasions. It happened even during the summer months because we recognise that it is not the Opposition that is expecting the Government to make public statements, it is the media that is expecting the Government to do this and this can happen for instance when GBC

arranges a debate on television on a matter that is deemed to be of public importance. However that is the assessment which professional people make that they think that the public would like to hear on television a debate involving members of the Government, members of the Opposition and others on a matter of public importance and one can recall a number of such occasions. I can recall at least three occasions when a Minister of the Government has been invited to take part in such a debate and has not done so. On one occasion a chair was left empty and I hope that it was a reasonably strong chair because if the Honourable member had been sitting there it would have had to be a reasonably strong chair.

HON J C PEREZ:

I never gave the reason for not going but it was in fact that I could not fit into that particular chair!

HON A J CANEPA:

So, Mr Speaker, a chair was left empty. The Honourable the Minister for Labour was also invited on two occasions on the matter of Spanish pensions and also on the question of Mount Alvernia. On such occasions, I think, that the Government should take a different view and, I think, that they are entitled to ignore the Opposition's call for a statement but I think that out of regard for the health of democracy in Gibraltar, I think, that they owe it to the public on such an occasion to appear on television. Also when there are letters in the press then, I also think, that the Government has on certain occasions an obligation to ensure that people get answers. On Tuesday of last week there was a letter in the Chronicle from fourteen workers of PWD in which they were complaining about the fact that they have not been reimbursed. I hope that they are going to be reimbursed and I hope it is not going to work the other way round and that when they get their assessment they actually find that they have to pay more. I hope that that is not the case. They were complaining about a matter which we had brought to the House. A question by the Honourable Col Britto. I can assure Honourable Members opposite that for all sins of the AACR administration about which we hear so much from them, I can assure Honourable members opposite that in the role that I was performing up to December 1987, not subsequently, not for the short period of three and a half months, but even prior to December 1987, that letter from fourteen workers of the PWD asking for information about tax assessments would have been answered by the Government. We would have given instructions either to the Commissioner of Income Tax or to the Press Officer or to someone to have replied to that letter, moreso given the fact that the Chief Minister had provided the answer when answering the question from my Colleague. That is why when I returned to Gibraltar on Sunday and I was reading through the past Chronicles as I always do to update myself on what has been happening that the moment that I saw that letter in the Chronicle I waited a couple of days

to ensure that a week had gone by and I then asked Col Britto to send a letter which he did. In the meantime and more or less at the same time Mr Jose Netto had also written a shorter letter to the Chronicle informing those concerned. I think that that was a responsibility of Government. They had a perfectly good answer and it had been given here and they should have had the courtesy to provide that answer to the people concerned. That is where I think the Government is failing. One cannot help but wonder whether it is that they do not have the time, if one is kind to them or that they do not care, if one is unkind to them. They cannot be bothered and whatever the reason the impression that can be given and very often is given is one of arrogance. We do not reply because we do not need to. That impression is being given and I do not say that to help them win the next election. It is the assessment that I objectively make about what is happening. Here in the House, of course, we find that we do not get the information that we are seeking. Yesterday we conducted a debate almost in cold storage because there are other matters that were relevant which ought to be debated and they cannot be debated and the Government has taken the attitude that it has within the Standing Orders of the House on the Joint Venture Companies. It results in a distorted picture of the Government's economic policies and what is happening with the Joint Venture Companies which is an important and integral part of what the Honourable Member calls his radical Economic Programme. There is no doubt that the Government has taken powers away from this House and that they are governing by Regulation. I do not ask the Government to go more slowly. No. They need not go more slowly because I think they could achieve the same pace. I can understand their frustration that it is difficult to break through the long established procedures but I told the Honourable Member when he was in Opposition, he will remember that, I said that there are difficulties and you can be working twenty hours a day and there is so much that Ministers can achieve and no more, because you do require and you do depend on other people to do certain things for you, like drafting legislation. We cannot draft legislation it has to be done by somebody else and if you ask that somebody else to draft twenty Bills for you or twenty-two as we have heard, there are priorities and there are real constraints. So it is not that we are saying "Use different procedures and slow down the process". The Isle of Man has a much slower process of enacting legislation. I think we have to work within the system. The pitfall is that if they do not try, not to go more slowly, but within the pace at which they are working, if they do not try to respond to the need for matters to be aired and the need to give people an opportunity to know. Maybe representative bodies in Gibraltar are quite happy with the way that things are going and the Government is not receiving much of a response or representations to legislation between getting First and Second Readings and Committee Stage, but even the Government themselves are finding that sometimes they are going so fast or wanting to go so fast that yesterday

they had to circulate six pages of amendments. When we get those six pages of amendments here in the morning or at night unless we work through the night which no doubt is what the Hon the Chief Minister wants the AACR to do, when we come here we are even less effective. So if the Government is not to be accused of governing by decree they need to find a way of responding to genuine points of view which differ from theirs and to sentiments which go towards a maximising of the democratic process regardless of what the AACR did in the past or did not do. If the world started on March 25th 1988, I challenge the Honourable the Chief Minister to show that he is bigger than Sir Joshua Hassan and that he can do it better and then I will be the first one to say that he did do it better. Because having regard to the esteem that I have for him, and he knows that I am capable of making that assessment, but I have for some months now been chastised by him personally chastised, for everything that went wrong. The Hon Chief Minister has been punishing me, Mr Speaker, for everything that he said that the AACR was doing wrong. The last occasion on which he did that in very graphic terms was last January when he punished me in the House for all these things in the past. I honestly think, Mr Speaker, that he has got to change that attitude and that mentality and show that he is a bigger man. He must show that he can do it better and I have been calling upon him to do that over a period of time and I do so again today. The impression that Honourable Members give, for instance, on matters to do with Town Planning which is a very proper one. Attempts were made through Judicial Reviews to stop the process of our getting on with things. I am glad that it was I when I was Acting Chief Minister and did not agree with the advice of the legal advisers of the Government, were telling us to do at the time, and it was the only occasion that I have used a Minister in a professional capacity, Mr Brian Perez, I used him in a professional way and asked him for legal advice, and we went ahead and today the Cornwall's Centre is there and let anybody come and tell me that that is not far better than the old Command Education Centre. In economic terms, in Town Planning terms, in what it has done for that Square, that is something to be proud of. I saw it as a model and I knew that the end product would be very successful and I went ahead regardless of the Judicial Review and we did it. But the Honourable member, the Honourable Mr Feetham is not having the same problem that we used to have. There is no attempt to trip him up. For whatever reason, I am told that it is because the Conservationists have run out of funds, that they do not have the funds available to take the Government to Court, they are not able to do that and the reality is that the Honourable Member is going ahead very very rapidly in developing and in bringing about economic development for the economic benefit of Gibraltar. In the meantime he is either riding roughshod over any views that people might express, if they could express them, or else maybe they do not feel

strongly about it. His strategy on the City Plan seems to be clear. He is so busy with other matters that he cannot produce the City Plan even if he himself told us he was going to do so in February 1989. So now the situation is that he will produce it at the end of their term in office. In the meantime a lot has been going on in Gibraltar and a lot has been happening and how it will fit in with that City Plan we do not know. So there is a lack of consultation. People felt very very strongly about the lack of public participation on Town Planning matters when we were in Government but they do not feel as strongly about such matters these days? Or is it that they do not have the guts to take on the Government because of the record of Honourable Members opposite in other fields of activities. They know what I mean, Mr Speaker. If that is the perception which certain members of the public have about the Government, well then fine, that is a matter for them. But these are also realities and so we come here and we ask questions and the Honourable member gets up smiling which he might do later on and we know that with the City Plan he is playing a game. Let the Election come and four years have gone by and he has got the Reclamation. This is being demolished and the other thing is being built and at the end of the day if they are re-elected at the next General Election they will feel it was all justified. People must agree and they must think everything is fine because they are re-electing us. That is the conclusion that they are coming to and when the Honourable mover says the end justifies the means what I think he means is that if they are re-elected then they are justified and everything that they have done is correct. However that cannot be because no Government is re-elected and no party wins an election because those that vote for them agree with everything that they are doing. It is sometimes to a greater or lesser extent and that is where, as I say Mr Speaker, I think they are going wrong. They need to explain and they need to be accountable to the public, to the electorate, and they need to be accountable up to a point to us because we have a measure of support. We represent a certain body of opinion in Gibraltar that in a democracy you should not ride roughshod over. That is a fact of life for us all who are democrats and who subscribe to the western style of democracy. That is why I say, Mr Speaker, we agree with the sentiments behind the motion and we share them and we agree with them. We therefore have no hesitation in supporting the motion and we are definitely going to vote in favour of the motion.

HON J C PEREZ:

Mr Speaker, I would just like to comment on a couple of points made by the Honourable the Leader of the Opposition referring to the use that a political party as well as the Government might make of the press. It is a matter of judgement whether the Government decides to send a particular person to a programme at a particular time. It is not necessarily, as the Honourable the Leader of

the Opposition has stated that it is the professionals who decide to have a programme of a particular subject because it may be in the public's interest because it could also be that they have nothing else to put on. The Government by appearing in such a programme on an issue on which it might not yet be ready to do so might find itself in a difficult position and proof of that is the debate we had this morning on the issue of Mount Alvernia. Even this morning my colleague, the Honourable Mr Mor, has had to tell the Opposition that the Government is not in full possession of all the facts in order to take a decision. So what was expected of the Government and of Mr Mor? To have gone there and said nothing and have one or two representatives of the Opposition putting questions to which he could not answer because he did not have the full facts in front of him? No, Mr Speaker, we have to act more responsibly and we have to look at the fact that when a Minister speaks it is the Government of Gibraltar that is speaking and not necessarily a representative of a political party. It is the Government of Gibraltar that is committing itself to everything that is said on television or in the press and that particular Minister must be prepared to be able to commit himself and to defend that commitment in that particular programme and if he is not prepared then obviously he cannot appear in that programme. Let me also say in passing that I used to agree very much about the thinking in GBC that people who did not turn up to a programme should have an empty chair, except that they never did it to any member of the previous Government. The Honourable Member will recall that on many occasions, perhaps for the reasons that I have stated Ministers refused to go on programmes and yet the only victim of that empty chair policy has been myself. After that they discontinued the policy. So much for GBC. Mr Speaker, in dealing with the press and knowing when to come out with particular information, as a Government, is different to acting from the basis of a political party and Honourable members must recognise that there is a difference. But even as a political party one must be careful how that information is used and get the timing right. I think frankly that it is not a subject which requires a motion of censure because of lack of information. The Honourable the Leader of the Opposition thinks that there might be some letters that should have been answered. The Honourable Leader of the Opposition does not know whether those letters might have been answered individually to the people concerned. I mean the Government can act in different ways. I can say that if we were going to answer every letter that came out we would need a full-time Press Officer just to answer Mr Francis Gonzalez who is a member of the Leader of the Opposition's Party. Mr Speaker, it is essential that as a Government, when it speaks it should be aware of all the facts of the matter in order to defend the position and it is preferable for any Government Minister or for the Government as a whole to remain silent on issues if there are still doubts as to what decision the Government might take. That is why I fully defend the position of the Government that when

we are ready to impart information we shall impart it. But we shall not be cornered by professionals in the media, by other political parties or by pressure groups to come out with information unless we are ready to do so and we are prepared to defend that point of view or that policy. Mr Speaker, I am grateful for the concern of Honourable Members opposite have shown basically in saying that the Public Relations of the Government is not as good as it should be and as the Chief Minister has said we might have to have a look at that and take a leaf out of the suggestion of the Honourable Mr Montegriffo and do something about it. So, in fact, in a way those particular issues that they have raised are really saying "Yes perhaps you are doing a good job, but it is not coming across". Fine. Thank you. We will take that into account and we will do something about it but when we do let them not start criticising us for doing that. Let me say, Mr Speaker, that since we are giving ourselves sound advise as to how to conduct public relations I would suggest that the Honourable mover of the motion should be less concerned at least when he comes to this House about his public relations and the way he or his party might use the press and be a bit more honest in the things that he moves as a Member of the House rather than looking at the public relations side. Because that is also true, Mr Speaker, we are all politicians and we all know what politicians do and we all know that we all depend on the votes of the electorate and we all know that the Government is in a better position than the Opposition because we are in a position to deliver and they are not. Mr Speaker, to come here as if you were the saint of the press, the man of principle and ignore something which is very blatant to all of us and that is that he continuously comes out with Press Releases just to keep in the limelight. Because a lot of these Press Releases lack substance. The Hon Member then gets upsets that the Government does not reply to them. Well we would have to have another Press Officer just to reply to the Hon Mr Montegriffo and we would not have time to do anything else. Mr Speaker, the Hon Member wants to be in the limelight and he thinks that by doing that he gets publicity well let him go ahead and do it. He should not however criticise us for not replying. The Hon Member drafts his Press Releases in his free time at weekends and if you look back and it will be seen that every Monday the Hon Mr Montegriffo has a Press Release. The Hon Member then has the cheek and the audacity to criticise one newspaper which is "The People".....

HON P C MONTEGRIFFO:

Which the Hon Minister writes.

HON J C PEREZ:

Mr Speaker, I do not write "The People". That is an assumption that the Honourable member is making. If I did I would tell him. Mr Speaker I support the paper. I was its previous editor and I think it is doing a

wonderful job for Gibraltar with regard to information purposes. But the only reason why Mr Montegriffo is criticising it is because it is the only paper that does not publish his Press Releases that is clear. There can be no other reason for it and it is true. I believe that it is true that it is probably because it is very allied to the party in Government and it will be foolish for any paper which is allied to the present Government to give publicity to another political party. That is the real world that we are living in and I think that fundamentally it is wrong for a motion which is talking about Government information to the public or to the House or to members of the Opposition that issues of how we should handle the press or whether we should reply to press questions, or whether we should send people to TV programmes, should be part of that same motion because it is totally outside of it. It has more to do with public relations and more to do from a Government point of view than with being ready or able to give the replies that are necessary at the time or imparting information or not wanting to impart information. Thank you Mr Speaker.

MR SPEAKER:

If no other member wishes to contribute to the debate, I will ask on the mover to reply.

HON P C MONTEGRIFFO:

Mr Speaker, I could not have wished for a more valid and for a more useful exposition of the malady affecting the Government than the contribution of the Chief Minister. Although his friend, Mr Perez, has come very close, but not quite so close as the Hon Mr Bossano. I am grateful to the Leader of the Opposition, for his initial comments and for the support that he has shown. I think that it is a matter that is serious and I will deal with the question of seriousness at a later stage. I think the attitude of the Chief Minister and of Mr Perez but principally the Chief Minister has actually pointed precisely at the issue which I am seeking to highlight today. He has gone through a number of well known techniques. Diversion from the main points as to whether I left the AACR, etc. We are however talking about Government accountability. The GSLP Government's accountability full stop. If the Hon the Chief Minister wants to bring a motion of censure let him do so. But let him not confuse issues when we are talking about something so important as how this Government is conducting its affairs. Apart from the normal tactic of diversion which he is a master of and I take my hat of to him, but apart from that tactic the other tactic that he uses, although less so of late with me but today he has had recourse to it because perhaps he has not had any other option, is the technique of ridicule. The technique that the Hon Chief Minister has used, Mr Speaker, is that I am really a very incompetent man sitting at a corner of this House. That I really do not understand anything very much. That I ask questions and I issue Press Releases

because I like the limelight and like to appear in front of the cameras and my family loves me to be on television all day and that really Mr Montegriffo does not have a clue. He makes these points not with any sense of regret or pity because he says "This young man should do other things". However he makes these points in a vicious sort of way or at least that is the way that I receive them and I think what this demonstrates, Mr Speaker, is a basic failure to address issues squarely and the reaction of the Chief Minister is to ridicule and shout. Well I will tell you one thing, Mr Speaker, I will not reduce myself to that level. If I do not understand what is going on in this House then quite frankly without mentioning names I think, I understand much more than the majority of members on that side of the House. I think the majority of members on that side of the House have very little training and have very little background on many things. They are however honest workers, that I am prepared to accept and I applaud them in that respect. They put in long hours and I give them credit for that. But what I cannot do, Mr Speaker, is accept criticism of that nature. However as I said I am not going to reduce myself to pinpointing people out because I do not think that is what democracy is about and I think that only serves to belittle this House. It does not add to the debate which is what is important. The Hon Chief Minister calls it just an academic exercise. I think that also betrays his perception of the problem. He said at one stage "I am losing one afternoon's work to discuss the point as to whether as a Government we are pursuing our activities in a way which is in accordance with the democratic process". Well if that is a waste of time then I entirely disagree, Mr Speaker. I would have thought we could be here debating a day or two as long as it was necessary after two and a half years of this Government. I am not suggesting that we have a debate every day but after two and a half years of this Government on a matter of well known public issue on which people are concerned about the style that has been imposed and a style which the Chief Minister defends. The Hon the Chief Minister recognises a particular and unique style which has been introduced to redress the problem which he says Gibraltar has and to call it a waste of time because we are spending one afternoon debating this, again betrays the attitude which he takes the whole concept of the democratic process. I want to dispel this idea of the seriousness of the motion and whether it is a censure motion. Mr Speaker, the motion is one of censure full stop. The wording I think leaves no doubt of that. What I meant to say, and I am sorry if I have caused any confusion, is that in the real world, I am not going to have a nervous breakdown when I get up here and instead of accusing the Chief Minister of things which are not plausible I think it is plausible to put to the Government that they believe they are doing an honest job and they are certainly putting long hours into it but I believe anyway that they are going about it in the wrong way. I think that is a plausible accusation. I may have my own views as to whether some

decisions are right or wrong. That is not the substance of this motion and what I am not prepared to do, Mr Speaker, is emotionally gear myself up in a way which the Chief Minister, in particular, is very apt to doing because he is also an actor. I was one at one stage but I gave that up and a long time ago. Mr Bossano can laugh if I ask him to, and cry and certainly get annoyed. Now all that I am saying is that we are here on a Friday afternoon to debate rationally what I think is a matter of public concern. I am not going to suddenly have a nervous breakdown or get angry and then we are all going to go out of that door and shake hands and say have a good weekend. Let us introduce a sense of realism into this debate, Mr Speaker. We are debating something that is important. It is very serious. I however know my limitations as one Member in the House and therefore when I said that in effect what I am doing is requesting the Government to change its course is that although my motion is drafted as a censure motion and it demands that action, clearly as an individual, I have to recognise that what I am doing is really requesting. Turning to the real world as well and turning to the comments that Mr Perez was making. I find it shocking that he says "Mr Montegriffo live in the real world. This is the world of the press, you can be criticised, you cannot be criticised". Well I agree this is the real world and the real world is that "The People" speaks with the voice of the GSLP. If that is not the case then I challenge the Chief Minister at some stage to confirm publicly that the views expressed in "The People" are not the views of the GSLP. If they are then the point that I was seeking to make appears to me to be still valid. That you have on the one hand a general reluctance to enter into a public debate on matters of importance but "The People" does not think twice. If my Press Releases are so irrelevant and if I am so irrelevant please let "The People" give up on me and attack somebody else. I am sick and tired of reading every week, because I read "The People" avidly, about Peter one and Peter two and about what I did or what I did not do. I think, Mr Speaker, that the editor, who of course is in no way influenced by Hon Members opposite, should be advised, in the interests of the GSLP, to hit at somebody else rather than at someone who is of no importance. As I say I look forward from now on to now having a much quieter existence and not having to read about myself so often in their political newspaper. The attack on me by the Chief Minister in terms of ridicule which I accept, Mr Speaker, as a concession to the substance of the argument I was putting forward and which the Hon the Chief Minister has had to resort to in order to create a diversion and which seems to me to be an acceptance, an admission that there is some substance in what I have said. The Hon the Chief Minister defends his style on the basis that "I have a job to get done and I am going to do it this way". I however say, Mr Speaker, that I do not think Gibraltar should be governed in that way and that it is not acceptable that Gibraltar should be run in that way. I understand that it is practical and it has day to day advantages but I think it is wrong.

I also want to draw attention to another fact which is a usual technique which the Hon the Chief Minister has recourse to and that is the allusion to the past and in this respect, Mr Speaker, although I am not here to defend Sir Joshua Hassan, the AACR or anybody else, I am here discussing this motion, I would ask the Hon the Chief Minister to accept whether he is not being hypocritical? The Honourable the Chief Minister accused some members here of hypocrisy? How can he Mr Speaker? For sixteen years he has been saying that things have been done wrongly. That they were not doing things properly and then when the Hon Member gets into Government and when asked how are things being done he says, "I am doing it because the guys before did it that way". That is an admission of complete hypocrisy. How could the Hon Member have criticised for sixteen years and then .....

HON CHIEF MINISTER:

Will the Honourable member give way?

HON P C MONTEGRIFFO:

No, I am not giving way.

HON CHIEF MINISTER:

It is not true, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, I am quoting the Hon the Chief Minister. He uses as a pretext for justifying certain actions .....I have not given way Mr Speaker, the Hon Member should shut up, Mr Speaker.

MR SPEAKER:

Order, order. If the Chief Minister has a point of order, he can ask on those grounds.

HON CHIEF MINISTER:

The Honourable member has ascribed to me a statement in the House which is a lie.

MR SPEAKER:

So you want it on a point of order.

HON CHIEF MINISTER:

Yes, Mr Speaker. What the Hon Member has just said and which he did not want to give way on is in fact not true. It is not true. During the course of questions from members opposite at Question Time in this House when the same subject that he has raised in the motion on whether we were given the same degree of information before or not,



the Honourable Mr Mascarenhas said whether in fact, I objected when in Opposition, to the answer given by Mr Featherstone in answer to Question No.89 of 1980 and I told the Honourable Member "no". In fact what I am doing now I supported when I was in the Opposition and I was the only member in the Opposition that said that what the AACR was doing with regard to the degree of information that was being given I said that it was their prerogative. So it is not that I condemned it before and I am doing it now which is what the Hon Member is suggesting. The position is that I accepted it before and I am exercising it now, Mr speaker.

HON P C MONTEGRIFFO:

Mr Speaker, I am very grateful to the Chief Minister for having at last clarified and that he will no longer use this pretext for not giving information. That is very welcome, Mr Speaker, and I look forward now to his being able to deal with requests for information without regard to the way in which they were apparently dealt with in the past which referred to the treatment that he received. Mr Speaker, to finalise I would like to refer to the attitude of the Government which can be summarised by the phraseology used by the Chief Minister and to some extent then taken up by his right hand man, Mr Perez, in relation to propaganda. This view was again a twisted view of what I had said. I was saying that the Government was doing such a wonderful job and that people were not getting to know about it." They referred to my bringing a motion saying "For goodness sake you are not selling yourself well enough and you are talking about marketing Gibraltar and doing such a good job that you are going to get twelve thousand votes next time because everybody is going to vote for you". The use of the word "propaganda" is I think more than just a joke. It is the way they perceive the issue and its evidence of their failure to objectively assess a point that has been put to them. I am not sure who is impressed, Mr Speaker, I know we all like to have a laugh but we are not going to be laughing all the time. I have other things to do as well. I am also losing this afternoon to other things that I could well be doing. Frankly I prefer to have a joke or two or three. However not everything should be reduced to the level of lightheartedness. If the Government believes and this is the understanding that he has given me, it is a matter of record, that what he is going to do is reconsider the position to see how Government propaganda can be improved so that everything that they are doing is known to the people better than it is, Mr Speaker. I think that in itself is a condemnation of the Government itself. A condemnation of their attitude to the provision of information and their failure actually to understand the points that I have been trying to make, which is that the democratic process involves an objective discussion in the community. That information is power, they are retaining power which legitimately should be more freely available and which would allow us to do our job and certainly would allow the community to be better informed as to the way that Gibraltar should be taken.

MR SPEAKER:

Before I put the question, I want to inform the House that under Section 44 of the Constitution, the Speaker rules whether the motion is one of no confidence. I have no hesitation in ruling that this is a motion of no confidence and therefore the ex officio Members cannot participate in the vote.

Mr Speaker then put the question in the terms of the motion moved by the Honourable P C Montegriffo 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 Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher

The motion was accordingly defeated.

ADJOURNMENT

HON CHIEF MINISTER:

I beg to move that the House do now adjourn sine die.

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

The adjournment of the House sine die was taken at 3.00 pm on Friday the 9th November, 1990.