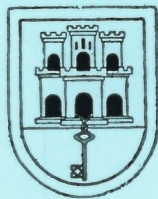


GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

23RD 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 Quanttrill, 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 31st 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 25th 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 25th 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 Gibrrepair, 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 was 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 existance otherwise we would have to put it into bankruptcy. Because the only way it will cease to be technically insolvent is if it looses 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 accummulated 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 0'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 licence 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 power 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 1a 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 1a 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 cronicly 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 cronicly 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 gauge 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 actionsI 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.