

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

26TH APRIL, 1990

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REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Ninth Meeting of the First Session of the Sixth House of Assembly held in the Assembly Chamber on Thursday 26th April, 1990, at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

The Hon P C Montegriffo

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS

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

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 18th January, 1990, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Air Traffic Survey, 1989

Ordered to lie.

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

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

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm

The House resumed at 3.20 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE CHRISTIAN BROTHERS PROPERTY (AMENDMENT) ORDINANCE, 1990

HON M A FEETHAM:

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

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

SECOND READING

HON M A FEETHAM:

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

MR SPEAKER:

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

HON A J CANEPA:

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

MR SPEAKER:

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

HON M A FEETHAM:

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

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

HON M A FEETHAM:

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

This was agreed to.

THE GIBRALTAR COINAGE ORDINANCE, 1990

HON M A FEETHAM:

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

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

SECOND READING

HON M A FEETHAM:

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

MR SPEAKER:

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

HON LT-COL E M BRITTO:

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

HON P C MONTEGRIFFO:

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

HON M A FEETHAM:

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

HON P C MONTEGRIFFO:

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

HON M A FEETHAM:

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

MR SPEAKER:

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

HON M A FEETHAM:

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

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

HON M A FEETHAM:

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

This was agreed to.

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) ORDINANCE, 1990

HON J C PEREZ:

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

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

SECOND READING

HON J C PEREZ:

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

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

Clause 9 is concerned with an employee in the Telephone Service who improperly communicates any telephone message or communication, again the penalty on conviction increases from £10 to £100, and I have Mr Speaker given notice of my intention to move an amendment to this figure at Committee Stage of the Bill to correct a printer's error. Clause 10 is again an amendment on the matter of penalty. Section 37 is the telephone equivalent of Section 16 dealing with electricity and that its failure to report damage within one's own premises and this again is increased to a maximum of £50 from the present £5. Clause 11 is yet again an increase in penalty and is concerned with wilful damage and unauthorised connections to telephone lines and the maximum penalty on conviction is increased from £25 to £500. Clause 12 is in the same vein. It is concerned with the dishonesties in the use of the public telephone or the telex system with the intent to avoid payment and it increases the maximum fines from £100 to £1000 on summary conviction and makes provision that on conviction or indictment there is a possibility of a fine as well as imprisonment. Clause 13 is a further increase in penalty in connection with Section 41. Section 41 is concerned with the right of an inspector to enter premises to inspect, repair, alter or renew telephone lines and the penalty is on conviction for obstructing such an officer. The proposed increase is from £5 to £100. Clause 14 makes provision for a new Section 57. The proposed new Section in fact reiterates the provisions which were in 47A and 47B which it is proposed to repeal. However it extends those provisions to either Part 1 or Part 2 of the Ordinance. Then we were previously confined to part 2 of the Ordinance. Clause 15 is concerned with the repeal of Schedule 2 and its replacement. Schedule 2 presently is concerned with telephone rates. It seems inappropriate to continue with this situation. The Schedule is to be used for the definitions as I have described. I fully appreciate that it is a complicated matter and I have sought to explain it using simple language. Although I must say it is still rather complicated if one does not have the Ordinance in front to relate to the amendments that I have mentioned. Finally Clause 16 is the repeal of a number of Sections of the Ordinance. Section 36 was concerned with publishing in the Gazette the terms of subscriber contracts. Since these are already provided to subscribers it seems an unnecessary arrangement. Section 42 and 43 where the Section is making provision for Schedule 2, for the removal of the old Schedule 2 and are now obsolete. As I have explained, Section 47A and 47B which are the final Sections repealed by this Clause are in fact replaced by a new Section 57. Sir, I commend the Bill to the House.

MR SPEAKER:

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



HON P C MONTEGRIFFO:

Mr Speaker, I would have thought that if the Minister spends so much time on his feet he might have actually explained a little more about what this Bill is about rather than explaining about amendments to Sub-Clauses provisos and Sub-Sections or whatever. This Bill, Mr Speaker, as far as I am concerned is about taking out of Government responsibility the provision of Electricity and Telephone Services that are supplied in Gibraltar. The important Section which was, if I may say so with respect, somewhat skimpily referred to by the Minister is the new Section 57 which is Section 14 in the Bill and which detailed very clearly, Mr Speaker, that the Government may by contract, on conditions that it itself determines, contract out to any company the provision of those functions which are outlined in the Ordinance as being Public Utilities for which the Government and the Ordinance is responsible primarily ie Electricity and Telephones. As the Minister has rightly pointed out a previous amendment which the Government itself brought to this House I believe in 1989 last year, only gave the Government that power for telephones in the context of the Nynex Joint Venture and it has now been widened to include Electricity. So what we are talking about here is not really the upgrading of our telephone technology as far as the law is concerned, that is an aspect of it, but I would seek to argue that it is a relative by-product of this aspect. The crucial thing, Mr Speaker, is the fact that provision is being made by this Bill for the two services of Electricity and Telephones to be contracted out to third parties. We have had very little detail from Government on the way the negotiations with Nynex are developing and precisely the type of service that the consumers will get. We have also had very little, in fact virtually nothing, about what plans the Government might have to make use of these provision in the area of Electricity. We however have, Mr Speaker, on the one hand a clause that allows the Government to contract out Electricity to for example the Gibraltar Development Corporation and which would allow the Corporation to provide an electricity service. So it is all part of a jigsaw which if looked at in a particular way could seem to be falling into place. The Government comes here with this Bill which, I would suggest, is seeking effectively a blank cheque. The Government says "we want to upgrade the Telephone Services and we want to be able to provide that electricity together with the telephones should be contracted out potentially to a company". But it does not tell us what the details of the service will be, what sort of contracts it has in mind, even in global terms without disclosing confidences, and therefore my attitude will be, the GSD attitude will be, one of not being able to support this Bill because it is very much a question of Government losing the responsibility for the provision of these utilities. It is providing for these services to be contracted out to a private company or to a joint venture company and we in the House do not know the terms. I do not know to what

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

HON K B ANTHONY:

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

HON P C MONTEGRIFFO:

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

HON A J CANEPA:

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

MR SPEAKER:

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

HON K B ANTHONY:

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

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

MR SPEAKER:

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

HON J C PEREZ:

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

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

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

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon P C Montegriffo

The Bill was read a second time.

HON J C PEREZ:

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

This was agreed to.

THE IMMIGRATION CONTROL (AMENDMENT) ORDINANCE, 1990

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

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

MR SPEAKER:

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

HON A J CANEPA:

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

HON P C MONTEGRIFFO:

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

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

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

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

HON P C MONTEGRIFFO:

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

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

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

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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



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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

MR SPEAKER:

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

HON P C MONTEGRIFFO:

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

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

HON G MASCARENHAS:

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

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE GAMING (AMENDMENT) ORDINANCE, 1990

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL & DEVELOPMENT SECRETARY:

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

MR SPEAKER:

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

HON P C MONTEGRIFFO:

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

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

HON LT-COL E M BRITTO:

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

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

HON FINANCIAL & DEVELOPMENT SECRETARY:

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

This was agreed to.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1990, be read a first time.

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

#### SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

MR SPEAKER:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

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

#### THE GIBRALTAR DEVELOPMENT CORPORATION BILL, 1990

MR SPEAKER:

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

HON P C MONTEGRIFFO:

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

MR SPEAKER:

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

HON A J CANEPA:

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

MR SPEAKER:

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

HON P C MONTEGRIFFO:

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

HON A J CANEPA:

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

(Laughter)

MR SPEAKER:

Look after your neck!

HON P C MONTEGRIFFO:

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

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

MR SPEAKER:

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

The House recessed at 5.20 pm.

The House resumed at 5.45 pm.

#### ARRANGEMENT OF SECTIONS

HON CHIEF MINISTER:

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

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

#### Clauses 1 and 2

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

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

The following Hon Members voted against:

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

Clauses 1 and 2 stood part of the Bill.

Clause 3

HON CHIEF MINISTER:

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

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

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

The following Hon Members voted against:

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

Clause 3, as amended, stood part of the Bill.

Clauses 4 and 5

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

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

The following Hon Members voted against:

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

Clauses 4 and 5 stood part of the Bill.

Clause 6

HON CHIEF MINISTER:

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

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

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



The following Hon Members voted against:

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

Clause 6 as amended, stood part of the Bill.

Clause 7

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

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

The following Hon Members voted against:

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

Clause 7, stood part of the Bill.

Clauses 8 and 9

HON CHIEF MINISTER:

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

HON A J CANEPA:

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

HON CHIEF MINISTER:

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

HON A J CANEPA:

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

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

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

The following Hon Members voted against:

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

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

Clause 10

HON CHIEF MINISTER:

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

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

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

The following Hon Members voted against:

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

Clause 10, as amended, stood part of the Bill.

#### Clauses 11 to 19

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

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

The following Hon Members voted against:

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

Clauses 11 to 19 stood part of the Bill.

#### Clause 20

HON CHIEF MINISTER:

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

HON A J CANEPA:

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

HON CHIEF MINISTER:

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

HON A J CANEPA:

Yes, we are.

HON CHIEF MINISTER:

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

HON A J CANEPA:

No, we are more concerned with (a).

HON CHIEF MINISTER:

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

HON A J CANEPA:

We have been reading it the wrong way round.

HON CHIEF MINISTER:

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

HON A J CANEPA:

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

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

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

The following Hon Members voted against:

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

Clause 20, as amended, stood part of the Bill.

#### Clause 21

HON CHIEF MINISTER:

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

HON M K FEATHERSTONE:

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

HON CHIEF MINISTER:

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

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

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

The following Hon Members voted against:

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

Clause 21, as amended, stood part of the Bill.

#### Clause 22

HON CHIEF MINISTER:

I move that Clause 22 be omitted, Mr Chairman.

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

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

The following Hon Members voted against:

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

Clause 22 was accordingly deleted.

### Clause 23

HON CHIEF MINISTER:

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

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

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

The following Hon Members voted against:

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

Clause 23, as amended stood part of the Bill.

### Clause 24

HON CHIEF MINISTER:

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

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

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

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

The following Hon Members voted against:

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

Clause 24, as amended, stood part of the Bill.

### Clause 25

HON CHIEF MINISTER:

I move that Clause 25 be renumbered as Clause 24.

HON A J CANEPA:

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

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

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

The following Hon Members voted against:

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

Clause 25, as amended, stood part of the Bill.

Clause 26

HON CHIEF MINISTER:

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

HON A J CANEPA:

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

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

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

The following Hon Members voted against:

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

Clause 26, as amended stood part of the Bill.

Clause 27

HON CHIEF MINISTER:

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

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

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

The following Hon Members voted against:

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

Clause 27, as amended, stood part of the Bill.

Clause 28

HON CHIEF MINISTER:

I move that Clause 28 be renumbered as Clause 27.



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

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

The following Hon Members voted against:

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

Clause 28, as amended, stood part of the Bill.

#### Clause 29

HON CHIEF MINISTER:

I move that Clause 29 be renumbered as Clause 28.

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

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

The following Hon Members voted against:

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

Clause 29, as amended, stood part of the Bill.

#### The Long Title

HON CHIEF MINISTER:

I am not amending The Long Title.

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

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

The following Hon Members voted against:

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

The Long Title stood part of the Bill.

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

#### Clauses 1 to 5

HON P C MONTEGRIFFO:

Mr Chairman, I am abstaining on the whole Bill.

HON A J CANEPA:

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

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

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

The following Hon Members abstained:

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

Clauses 1 to 5 stood part of the Bill.

Clause 6

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

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon P C Montegriffo

Clause 6 stood part of the Bill.

Clause 7

HON J C PEREZ:

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

HON K B ANTHONY:

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

HON J C PEREZ:

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

HON A J CANEPA:

Not even the obscene telephone call?

HON J C PEREZ:

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

HON K B ANTHONY:

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

HON J C PEREZ:

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

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

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

The following Hon Members abstained:

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

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

Clause 8

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

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

The following Hon Members abstained:

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

Clause 8 stood part of the Bill.

Clause 9

HON J C PEREZ:

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

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

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

The following Hon Members abstained:

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

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

Clause 10 to 13

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

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

The following Hon Members abstained:

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

Clauses 10 to 13 stood part of the Bill.

Clause 14

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

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon P C Montegriffo

Clause 14 stood part of the Bill.

Clause 15

HON K B ANTHONY:

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

HON J C PEREZ:

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

HON K B ANTHONY:

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

HON J C PEREZ:

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

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

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

The following Hon Members abstained:

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

Clause 15 stood part of the Bill.

Clause 16

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

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

The following Hon Members abstained:

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

Clause 16 stood part of the Bill.

The Long Title

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

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

The following Hon Members abstained:

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

The Long Title stood part of the Bill.

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

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

SCHEDULE

Part I - Consolidated Fund was agreed to.

Part II - Improvement and Development Fund

HON K B ANTHONY:

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

HON J C PEREZ:

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

HON K B ANTHONY:

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

HON J C PEREZ:

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

HON K B ANTHONY:

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

HON CHIEF MINISTER:

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

HON K B ANTHONY:

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

HON J C PEREZ:

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

HON K B ANTHONY:

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

HON J C PEREZ:

Anyway it was used with System X.

HON K B ANTHONY:

It is earthing equipment?

HON J C PEREZ:

Yes.

HON K B ANTHONY:

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

HON CHIEF MINISTER:

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

Part II - Improvement and Development Fund was agreed to.

Clause 2 and 3 were agreed to and stood part of the Bill

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

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



THIRD READING

HON ATTORNEY-GENERAL:

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

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

On a vote being taken on the Gibraltar Development Corporation Bill, 1990, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

On a vote being taken on the Public Utility Undertakings (Amendment) Bill, 1990, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon P C Montegriffo

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

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

MR SPEAKER:

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

HON A J CANEPA:

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

HON CHIEF MINISTER:

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

HON J C PEREZ:

It is a Bank Holiday on Monday.

HON CHIEF MINISTER:

Shall we make it then on Tuesday 29th May?

HON A J CANEPA:

If it is alright for the Government then even better.

MR SPEAKER:

So the House has agreed on Tuesday 29th May. Now I would like to point out to the House that the speakers have forty minutes.

HON P C MONTEGRIFFO:

Mr Speaker, conscious as I am of the constraints of time and although I gave notice in advance of Mr Britto, I am conscious also of letting him have his say and I also want to make sure the Government has a full opportunity to reply and even perhaps for us to have an exchange of views. I therefore wish to limit myself to about ten or fifteen minutes to allow Members on that side of the House to reply. Mr Speaker, the situation, as raised in my notice I think is well known, but just for the record, Mr Speaker, initially the matter had been drawn to the public's attention by Action for Housing that there was an individual who had not been given or allowed his £10,000 tax deduction under the Home Purchase Rules because his employer has not paid its 'Pay as you Earn'. The House will recall that the purpose of those Rules, introduced by the Government, was precisely to ensure that people buying a home would have the benefit of a significant reduction in tax as a one-off benefit, up to a maximum of £10,000, and that £10,000 figure would be a figure which could be set off against assessable income which would normally be due. I think it is relevant to refer briefly to the report as it initially became public. There is a quote that the Commissioner of Income Tax was supposed to have said "that they were withholding the allowance they, meaning the Government, because it was Government's policy to treat firms with tax debts in this manner". The report went on to say that Action for Housing had stated that the Tax Official had remarked that even if the firm were to pay PAYE of a particular individual his tax allowance would still be withheld since the Tax Office would require the company to settle all debts with them. The situation which the individual finds himself in therefore is one where through no fault of his own it appears that he is paying the price for a default for which the employer is responsible. You could therefore have a situation where in a same block in Vineyards, for example, you might have somebody who has been allowed his £10,000 allowance because he works for an employer that does not owe PAYE and the chap next door, who happens to have an employer who does owe PAYE, is apparently being affected and his tax allowance is not being allowed. My reaction when I read this and heard it the night before on GBC was that certainly this would be a very very detrimental step and I could not accept that Government would want that to continue and that therefore remedial measures, if such were required, should be taken swiftly to make sure that the

£10,000 allowance was a reality for everybody and not just for some who happen to be employees of companies who did not have a PAYE problem. The way that the allowance has been worked as far as I am aware is that most people have been claiming a rebate of tax so that the distinction, has to be drawn, Mr Speaker, between that allowance being credited for a future year when in fact nothing has been paid now to the tax office and money which is credited back from the tax for the last year of tax. For example, there have been cases where people have actually gone to the tax office and said, "in this year I paid so much tax but I want to get the allowance for this year so please give me back money which I paid" and in fact, as I understand it, quite a lot of people have been benefitting from that sort of provision. Now it is not clear in the report to what extent the Income Tax Office is not giving these people or this individual the £10,000 allowance? What exactly is meant? Whether the allowance would not be given to them at all or only the rebates in terms of tax that has not yet been paid? In any event, Mr Speaker, the point that is at stake here is a fundamental one, as I see it, of an individual's rights to benefit from the provisions which make Home-ownership attractive for him. It would be wrong, in principle, even if the law now or previous ruling given by the Commissioner of Income Tax have led to the situation, it would be unacceptable for the situation to continue whereby you can have two neighbours in Vineyards, one who receives the allowance in circumstances identical to the one next door that does not because that other person's employer owes PAYE. The whole thrust of these Rules, if they are to have the benefit which they were intended to have, was to really make Home-ownership attractive to more people and must not be detracted from. There must not be anything which in fact is going to interfere with the application of these Rules across the board to everybody who might want to make use of them. The position also arises but I do not want to make controversial the debate specifically on this issue, but the point does arise of course in respect of GSL and other public related companies which owe Pay as you Earn and where I assume that employees who have mortgages are not suffering the same problem. That is something which perhaps the Government can clarify. It would be quite wrong for there to be a situation where an employee of say GSL does get his tax allowance but an employee of the particular company involved does not. The reply of the Commissioner of Income Tax in today's Chronicle is basically the following, he is quoted as saying "I have not got the money so I cannot give it back". The Commissioner's view appears to be a simple one of saying I cannot return what I have never received. That view although logical, at face value, will serve to distort completely the social benefit which the Rules are intended to bring about and I would ask the Government to accept that in any situation of tax there is always a case of the Government owing individuals rebates. It is well known that individuals are owed in some cases one, two and even three years of rebates. There are also many situations where individuals owe the Government money

in tax. So we are involved constantly, Mr Speaker, in a balancing of money owed out and money owed in and in that global balance and equilibrium to penalise one particular set of persons because their employers have not paid their Pay as you Earn contribution is, of course, quite wrong. I think it is obvious, Mr Speaker, that as far as the individual is concerned he has paid his tax because the individual has had the money docked from his wage and he finds himself quite rightly aggrieved at finding out that a ruling exists barring him from making use of these particular Rules. Since all of us in this House are committed to Home-ownership I would urge the Government that when they reply they should extend their comments not just to explaining why, on a technical basis, the situation might have arisen ie because money has not been received or because there may be a Ruling that the Commissioner had previously arrived at, but rather to accept that if we find ourselves now in this position and it is the first case to have hit the press because other people might have accepted the position without saying anything, to accept that steps should be taken to remedy that position so that everybody gets the benefit of these Rules. I feel passionately, and I have said so in this House before, that the ability to own one's own house is a fundamental cornerstone of making people more committed to Gibraltar, of giving them a stake in our community and discriminations of this nature, which arise not through any specific attempt to discriminate against an individual, I am not alleging that until I hear an explanation, but effective discriminations do not help to get to a situation where we will have a much higher percentage of Home-ownership than is presently the case. Mr Speaker that is basically my contribution and I will make way for others to express their views.

HON LT-COL E M BRITTO:

Mr Speaker, it is obviously unusual for there to be two motions on the same subject on the adjournment, and in a way I suppose it is a clear indication, a clear signal, to Members opposite of the importance which Members on this side attach to the subject matter and I must stress, Mr Speaker, that there are two motions being debated. Because although technically we are debating the subject raised by the Honourable Member who has just spoken, as you announced earlier, Mr Speaker, I also gave notice on behalf of the Official Opposition that we wished to bring this matter up on the adjournment and it is only as you know through the technicalities of Standing Orders that lay down that the first letter of notice which arrives, even if only by a few minutes, is the one that is deemed to take precedence and is the one that is considered as being debated. I think it is important to say this, Mr Speaker, for the record, and also because inevitably there will be some repetition in what I will say because obviously I have not had previous notice of what the Honourable Mr Peter Montegriffo was going to contribute. I will ask you to bear with me on these repetitions. Nevertheless I will reiterate what he himself

said that we have agreed to limit the length of our contributions in order to give the Government as much time as possible to give us a detailed reply. Mr Speaker, the matter which we are raising is essentially a very simple one but it raises some very important points of principle and of individual rights. Indeed the case in question is one which has originally been identified by Action for Housing and is the case of an employee who has been named, the name is known, indeed the Company which employs him has been identified and is known and indeed the Civil Servant who dealt with the case in the Income Tax Department has been identified and his name is also known. However it is not my intention to deal with this matter as an individual case or indeed to disclose or identify the persons involved, but rather to deal more with the principles that it raises. It is a simple situation, Mr Speaker, and one which has already been explained in detail and which can be summarised rather quickly. It is simply that an applicant for the £10,000 tax allowance which Government grants to first time home buyers has been apparently refused on the grounds that the applicant's employers have not paid the Income Tax deducted from his employee as PAYE for the past two years. The situation under the law is equally simple, Mr Speaker. As we all well know, all income earners are liable to pay income tax. An employer has the legal right to deduct this tax as PAYE from the wages and salaries of his employees. The employer has a further legal obligation to pay to Government such PAYE deductions not later than the 15th of the following month and indeed any employer who fails to do this is breaking the law. The law is quite detailed on the subject and an offender can be taken to Court by Government for such breach of the law. It is equally clear, Mr Speaker, that in this case the applicant for the £10,000 tax allowance has himself in no way broken the law. In fact he has discharged his legal liability to Government the moment his tax was deducted from his pay as PAYE and in fact the irony of it all, I suppose, is that if PAYE did not exist then he probably would not have the problem which he now has because he would have been assessed directly by the Income Tax Department and presumably would have paid his tax direct to them and the problem would not have arisen. I said, Mr Speaker, that essentially it is a simple situation and essentially it is a situation which requires simple, clear and straightforward answers from the Government. I am going to put six questions to the Government to which I hope I will get detailed information. Firstly, is it true that the person who was named in the letter dated 23rd April, from Action for Housing to the Honourable Mr Baldachino as, Minister for Housing, has indeed been refused this £10,000 tax allowance on the grounds that his employer is in arrears with his PAYE payments to Government. Secondly, if this is so, was the Commissioner of Income Tax acting on his own initiative, or under the instructions from Government or any individual Minister? Thirdly, is it Government policy to withhold the £10,000 tax allowance from employees of firms who have tax debts with Government, and if so, in how many previous cases has this been done. Fourthly, is

Government policy in withholding, if indeed it is Government policy, this £10,000 tax allowance, is it any different when it concerns employees of GSL or other Government Joint Venture Companies in comparison to employees of firms in the private sector. Fifthly, if the firm named by Action for Housing in their letter dated 23rd April were to pay Government the full amount of the tax arrears of the employee in question, of that one employee, would his £10,000 tax allowance still be withheld until the firm cleared up all its other tax debts and finally, Mr Speaker, is it true that the Income Tax Department has refused to grant this person any further interviews until such time as his employers have cleared up their tax debts ie the whole of their tax debt? I must stress at this stage, Mr Speaker, that the AACR Opposition in no way condones the action of firms who deduct PAYE tax from their employees and then delay in paying this tax to Government. However we consider it nothing short of scandalous and totally unacceptable that the employees of these firms should be penalised in any way for the actions of their superiors over which they have no control. We call upon Government today to answer these six questions we have asked and to make a clear and unequivocal statement of their policy in this matter. What they cannot do today is to hide behind ambiguous and misleading excuses like the answer given to media questions that they were unable to comment because they do not have access to individual files. To start with, they do have this access to that information, because they gave themselves the powers to do so in December 1988, when they amended the Income Tax Ordinance and I quote from the relevant paragraph with the amendment to the Income Tax Ordinance which reads "Notwithstanding anything contained in this section, the Commissioner shall" and I remember with great detail the Chief Minister changing the "may" to "shall" at the suggestion of the Honourable Mr Peter Montegriffo, "the Commissioner shall at the request of the Financial and Development Secretary provide such information relating to any matter referred to in this section as the Government of Gibraltar may require for purposes of formulating their economic and fiscal policies of the Government". Neither can we accept, Mr Speaker, as a reasonable excuse that there is some law or rule or regulation or some obscure small print or precedent or previous decision somewhere that authorises such blatant discrimination against an individual's rights. We will not accept it because if such a regulation does exist, then the answer is very simple because it is a bad regulation and it has or it should be abolished or amended with immediate effect. In conclusion, Mr Speaker, we look forward to some clear speaking from the Government side, both in explaining their policy and in saying what remedial action they intend to take.

HON A J CANEPA:

Perhaps, Mr Speaker, I could just add, to the point made by my Honourable Colleague, the question of access to individual files. I think whether the Government have access

to individual files or not does not really matter, because this is just an individual case that has cropped up and could also crop up in future. There is a general policy, apparently, that unless the Government is in receipt from employers of monies that have been deducted under PAYE, the Government is not going to make what one might call a reimbursement to an individual tax payer of sums of monies which the Government says it has not received. So the policy is one of general application and if there is no validity in the point that my colleague has made, there is certainly no validity in the point that the Government has made, that they are not able to do anything because they do not have access to individual files. There is a general policy ie what is to be done about individuals who are first time home buyers, who make an application for this allowance and who may be employed by employers who owe the Government arrears of PAYE and of which money has been collected from the employee. I think that what has got to be kept in mind is that we have a PAYE system of collection that was introduced by the AACR Government in 1975. Now, Mr Speaker, if that was not in operation people would pay income tax only when they were assessed for a particular year. The arrangement previously used to be you were assessed for a particular year and you used to be sent a tax bill which you paid. Of course, prior to 1975, the tax commitment were very much smaller compared to what it is now and once salaries and wages started to increase dramatically we had to introduce the PAYE system. It also meant that we ensured that people would not get away with paying tax just by leaving Gibraltar. However if the old system were to operate then this would not happen because the individual in question would not be in arrears if he had not been yet assessed and once he had been he would of the last two years, by now have paid. I wonder, Mr Speaker, and I do not know whether the Government has taken legal advice or can take legal advice on the matter of an aggrieved person making an application to the Courts that he has discharged his obligation, his tax liability to Government, through his employer deducting his PAYE commitment and if that person were to make an application claiming his entitlement to receive the allowance then, I think and I am not a lawyer, and I am not going to give a legal opinion, but as a layman it would seem to me that that aggrieved tax payer would have a very very good chance of winning his case. Morally, he is certainly right even though legally he may not be. So what we are asking the Government is to give favourable consideration having regard to the policy of the Government on home purchase I think, Mr Speaker, that the matter needs to be very carefully considered and thought of.

HON CHIEF MINISTER:

I do not know how much time I have to reply, Mr Speaker.

MR SPEAKER:

I think I made a mistake when I said originally quarter past seven, but as I made the mistake, it stays like that. Perhaps I deliberately made the mistake, so you have till quarter past seven.

HON CHIEF MINISTER:

I certainly, Mr Speaker, could have saved the Members opposite a lot of time if they had chosen not to jump to conclusions and I think if there is a clear signal of their enthusiasm to bring this to the House, it is a signal of how infrequently they find something which they think they can attack the Government. That is what it is a clear signal of and I find it very odd that the Honourable Mr Montegriffo should say he wants to hear the Government's explanation before he condemns anybody when he spent a lot of time condemning us already. But, of course, they are going to get very clear-cut answers as always. I agree that it is scandalous that an employer should deduct money from a worker and not pass it to the Government and that, in fact, that worker should be penalised for it. All I can say is that the AACR has been converted to this view since they were kicked out of Government which, at least, is one more good thing about the fact that they lost the election. Because if there is a Government policy as is claimed by the Commissioner of Income Tax, I can give a clear and categorical assurance to this House that no such policy has been introduced since the 25 March of 1988 and therefore if the policy exists it must have been introduced by the previous administration. So either the Commissioner of Income Tax is lying and there is not a policy or he is telling the truth and there is a policy to which he has been working for a very long time because we did not know the policy was there and we could therefore not change it. Every day, Mr Speaker, every day I open files and I throw up my hands in horror at the inheritance we have had from the AACR and which I can only put right after I discover it, not before, because I am not aware that it is there.

HON A J CANEPA:

If the Hon Member will give way.

HON CHIEF MINISTER:

No, Mr Speaker, I will not. The Hon member opposite, Mr Speaker, has asked for plain speaking and he is going to get it, he may even regret having asked for it but he is going to get it. Let me tell the Honourable Member opposite, when the Income Tax Ordinance was brought in and when people started paying PAYE, this matter was brought to the House of Assembly by me from the Opposition benches. The Honourable Member should remember what kind of memory I have. And it was defended by the Government at the time, the AACR

Administration on the basis that it was technically and legally impossible to refund a payment which has not been received. It was not about home-ownership, but it was about many other things. If you had a situation where somebody got married and the wife had a child and the man went along to the Income Tax and claimed childrens' tax allowance, the Income Tax would say, "until we receive the PAYE from your employer we cannot take your word for it. We have to have it black upon white and we have to have the money", and that went on for many, many years and the only concession that I got the AACR to accept, and it is the only concession that is still in the law, and it actually arose from a situation where employees were thrown out of work because their building firm collapsed and they found that they could not claim unemployment benefit because the Government policy at the time was also that you could not claim the benefit if your insurance payment had not reached the Labour Department, notwithstanding the fact that the worker had had the insurance payment deducted. And as a result of pressure from me in this House and as a result of pressure from the Transport and General Workers' Union, the Government made the sole concession which is still in the law that in cases of liquidation the Government pays back money that it has not received. We have not introduced that policy, we have not done anything to change it. We did not give any instructions to the Commissioner and we do not even know what Mr Graffione said to Mr Gustavsson because it did not happen in a Council of Ministers Meeting and we were not there. So what we have is a situation where what we do know now, that we have investigated, is that Mr Gustavsson called on the Income Tax Department on February 19th or 20th, and the version that I have is that when they tried to explain the position to him, he went off in a huff. He then wrote to me in March, Mr Speaker, and I then asked the Department to investigate because in fact the Member is wrong. I cannot say: "send me Mr Gustavsson's personal tax file". I said when we introduced the amendment that the amendment was in pursuance of economic and social policies and I can ask for the list of all the people who claim tax relief in pursuance of our policy of home-ownership, but I cannot say: "I want one individual's income and I want one individual's tax liability", and I do not want to do it anyway. So he is wrong and I am right when I said that that could not be done. That is the interpretation of the law that the Attorney-General gives me and it is certainly the interpretation of the law the Commissioner of Income Tax has and it is the interpretation of the law that the Financial Secretary has. I have not tried to get anybody's file but I am assured that if I tried I would be refused. So the clear-cut answer the Honourable Member wants to his six questions is I do not know what was refused or what was not refused in that meeting. All I know is that the meeting took place in February, that I received a complaint from this man in March, like I do from many many individuals on many many issues, and I do what any Government would do. As a politician I said to somebody in the Department, "find out the facts of this case and let me know". Before



we had a chance to reply to the man, he had gone to Action for Housing. We then had Opposition motions. Well fine, but I am sorry Mr Gustavsson will have to wait for his case to be investigated and he will have to wait to get a proper answer. Because the last thing we want to do is for every irate taxpayer to solve his situation by having adjournment motions over every single grievance. As far as I am aware, from the limited information that is available to me, this person has already claimed the £2,000 tax allowance and received it, so therefore he cannot get £10,000 for a start. Secondly, the house only cost £9,000 in the first place, so there is only £7,000 left to get 100% of the cost price of the house, so he cannot get £10,000 for that second reason. Thirdly, the payments on which people can claim tax relief are the payments they make for the house. What somebody cannot do is go along and buy a house today for £100 and claim £10,000, so he can only claim what he has paid. The Income Tax is not clear about these details so they need to get him to produce information and establish to what he is entitled to and how much. The way that most people claim their entitlement in fact is not by a lump sum. The way that most people claim their entitlement is by a revision of their code and if someone is paying £10 per week mortgage and they upgrade his code by £10, then you pay £3 less in tax. So therefore the employer cannot keep the £3 because he does not take it away from his employee. That is the way that the man can get his £2,000 or £3,000 a year which is the only thing he can get, what he has paid. He cannot get more than what he has paid. So there is no question of him being deprived of any of this. Independent of that I have to tell the House that certainly we think that there is much wrong with the system because we are still in a situation where 1986/87 PAYE returns are being processed and if somebody comes along and says: "I spent so much on a house in 1988/89", it is impossible for the Income Tax Department to give him a refund because they have not yet got round to doing 1988/89. What we are doing to cure that, not because of Mr Gustavsson and not because of motions on the adjournment, and not because of Action for Housing, but because we think it is a necessary thing, we are spending a lot of money in computerising the Income Tax Department and we expect that when that is finished, and it has taken longer than we would have liked it to, it has been going on now for four months this year, but we expect that when that happens it will enable assessments to be done by computer and not manually and it will therefore enable .....

HON A J CANEPA:

If the Honourable Chief Minister will give way. In fact what the Income Tax Department, and I have a personal interest to declare, what they are doing in respect of claims for this allowance is that they are giving them priority. In my case for instance, I was assessed for 1987/88 and 1988/89 separately and the assessment for 1989/90, the current year, will be done almost immediately in the next tax year, so they are giving priority to applications for the home purchase allowances, quite apart from computerisation, that is being done.

HON CHIEF MINISTER:

Well that is something that the Commissioner must have decided to do on his own initiative. Presumably there is nothing in the law that tells him whose assessment he has to do first, but I can tell the Hon Member what we told him to do as a matter of policy. We said "Look, if you are unable to cope with the demand for people to get a refund as long as you are satisfied that there is enough tax there, then give the person 30% as a part payment of the tax refund". That is done in the knowledge that nobody that is able to buy a house is likely to be paying 30% tax and that is what we suggested to him was a way to meet the problem of arrears of assessments. Now it may be that, as the Honourable Member has said from his own personal experience, what they are doing is actually fishing out individual files and doing it. My understanding of the law and it may be that we need to change the law, I do not know, but my understanding of the law is that the Commissioner has no choice. That is to say, the Commissioner does not require a policy directive, the Commissioner cannot pay tax back to somebody unless he has received that person's tax or unless the employer has gone into liquidation. Now I can tell the Member opposite that this is not something that I am being told now, I am saying that I was told that in this House when I was in the Opposition and when the amendment was introduced in the legislation to make an exception for the company that is bankrupt, otherwise why do you need it.

HON P C MONTEGRIFFO:

If the Hon Member will give way. Mr Speaker, a few points. As far as the law is concerned, certainly my understanding of the situation is that the law does not prohibit the Commissioner of Income Tax from making a repayment in these circumstances, but I would like to, if I can because the nature of the rules are that in a few minutes the Chief Minister will have to finish, I would ask the Chief Minister whether he could focus on the point that even if we were to assume that there was a problem technically be it as a result of former directions given or be it as a result of the law which I do not accept, but be that as it may, would the Government accept as a matter of principle and I am not interested in the individual details of the person that thinks it is unfair, but would the Government accept as a matter of principle the need to rectify the rules to make sure that people in this situation generally should not suffer the treatment they are getting?

HON CHIEF MINISTER:

Mr Speaker, I have said categorically that no policy directive to do this has been given and no action has been given to correct it because in fact nobody in the Government knew that such a policy existed. However to change the policy may require a change in the law and we will have to look at it because I do not think you can have a situation where

you say, people will be able to claim a refund of the tax that has not been received by the Commissioner on the basis that the Commissioner presumably is satisfied and although he has not got it, somebody has got it without the Commissioner putting the company into liquidation to get the tax back, which is the position at the moment. Now in fact, in this particular case, this company owes arrears that go back to before we were in Government. They are actually up-to-date with the tax of 1989/90, it is the tax of 1987/88 that they have not paid and certainly there is no tax allowance for home-ownership that we have introduced which goes back to 1987/88. The effective date of the £10,000 tax allowance or if people had already claimed the £2,000 the difference of £8,000 can only be claimed in respect of payments made from the 1 July 1988 and consequently can only be offset against tax paid in these tax years. So I cannot really understand that there is such a problem but obviously the fact that this was brought to my attention in March and the fact that I asked for an investigation and a report means that the Government in this instance, like in every other instance, where any other citizen has a grievance takes action to investigate whether that grievance has got a solid foundation, whether it is an individual unique case or whether it is a case that has got more general application. Obviously if you have a situation such as this, it is a difficult situation to understand what is best because in fact in this particular instance, as in a number of others in the private sector, during the course of the year, the Income Tax Department and the Attorney General's Chambers have given the company more time when they have requested more time. They have not said "right we are going to go for you and get you to pay the tax". If they had Mr Gustavsson would probably be unemployed in which case he would have had his tax allowance but he would not be able to pay the house. The situation is that the authorities in cases of PAYE try to give the companies more time because it is in the interest of the Government, it is better if a company can be given more time and will pay the arrears than if the company is put into liquidation and at the end of the day the Government gets nothing at all. So as long as there is a chance that the company will recover, now there have been also allegations in this statement that the company is refusing to pay the PAYE for 1987/88 I imagine because they had some contract with the Government where the Government owes them money. All I can say to the House is that I know nothing about that and that is another of the allegations about which no doubt somebody will carry out an investigation and give me the facts. But from the point of view of the policy of the Government, the policy of the Government is clearcut. There is no such policy directive and if we find that people are being penalised, then the matter will be put right but as far as we know, there are already ways, within the existing system, where it can be done. That is to say, if what I am being told is accurate, then when Mr Gustavsson eventually gets his reply which he will get, not any quicker because

it has been brought here, because I think that will give the wrong impression, because then all that people would have to do is to bring motions here and they get immediate answers. He will get his reply in due course and as I understand it the reply will tell him how he has to go about claiming the allowance without feeling discriminated or penalised and so on with the existing system as it is. I am told that the system makes it possible. Now the collection of arrears of PAYE and whether one should close the company down if it does not pay is a totally separate issue but it is certainly an issue where the Government cannot simply allow a situation to go on forever although we believe, as far as possible, in giving people an opportunity if they have gone through a bad trading patch to recover if they are committed to paying those arrears and, as I understand it, the problem is a backdated one but the current payments are being made and therefore if the current payments are being made, it is even less comprehensible, frankly, because all I can assure the House is that there is absolutely no political involvement of any policy decision and any directive having been taken. If there is somebody who has gone to an office who may have got a good or an inferior or a bad reply which happens every day in the public service when customers deal with public servants and it happens every day in the private sector if you go in a shop and you get bad service. If you go in a shop and you get bad service you go looking for the shop owner and here we are the shop owner and people come looking for us. That is what this particular gentleman did and he did it in March and in April here we are debating it in the House. Well, I am afraid we cannot produce instant answers for each of the 20,000 aggrieved taxpayers because we are all aggrieved, none of us like paying tax. I do not. That I think is the position and I do not think I can be clearer than that.

HON P C MONTEGRIFFO:

Mr Speaker, will he give way?

HON CHIEF MINISTER:

No, I have already finished.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday 29th May, 1990, at 10.30 am.

The adjournment of the House to Tuesday 29th May, 1990, at 10.30 am was taken at 7.15 pm on Thursday 26th April, 1990.