

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

15TH MARCH 1993

(adj 30th April 1993, 25th May 1993)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fourth Meeting of the First Session of the Seventh House of Assembly held in the House of Assembly Chamber on Monday the 15th March, 1993, at 2.30 pm.

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 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 Blackburn Gittings - Attorney General
The Hon E G Montado - Financial and Development Secretary

OPPOSITION:

The Hon P R Caruana - Leader of the Opposition
The Hon Lt-Col E M Britto OBE, ED
The Hon F Vasquez
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 23rd November, 1992, having been circulated to all hon Members were taken as read, approved and signed by Mr Speaker.

COMMUNICATIONS FROM THE CHAIR

I think it will help to smooth the ordinary procedure on Questions if I explained the most relevant processes regarding their admissibility generally and particularly on the subject matter of companies wholly or partly owned by Government in which Ministers may be members of the Board of Directors. Written Questions must be handed in to the Clerk at least by zero hours five clear days before the

day of the meeting exclusive of Saturday, Sunday and holidays. The Clerk scrutinises the Questions and if necessary advises the Member on their admissibility before submitting them to the Speaker for final approval or otherwise as is the practice in the House of Commons. The Speaker will then examine them in connection with the rules and practices governing their admissibility. As to their interpretation he is the sole judge. If in the Speaker's opinion any Question is in any respect inadmissible as not complying with the rules or as constituting an abuse of the right of questioning he shall decide, that it may be asked with such alterations as he may direct or that it be returned to the Honourable Member concerned as inadmissible. As to Supplementary Questions, the same admissibility rules and practices apply but can only be asked for the purpose of further elucidating any matter of fact arising out of an oral answer. Furthermore, it will not introduce any matter not included in the original Question and must not be made a pretext for a debate. Questions have to relate to public affairs with which Ministers and ex-officio Members are concerned or to matters of administration for which the Government is responsible. As to Questions related to matters connected with Government owned companies, the practice followed since March 1980 is that a Minister connected with a company as such is not expected to answer questions on the day-to-day running of the enterprise or part with information on matters for which the Board of Directors are collectively responsible. So clearly, in these areas questions are not admissible. Therefore, a distinction has to be drawn between the wider responsibilities of the Minister on Government policy and the narrower commercial connection of the Minister as director or managing director. Thus, the functions of these two offices can overlap and the extent of the merging of accountability of the Board and of the Government inevitably must be left at the discretion of the Minister in his dual capacity with regards to his answers to Questions in this House even when considered admissible. Because the number of such Government owned companies have been increasing I have been verifying the continuing validity of the ruling by taking counsel with independent, informed and experienced Westminster Parliamentary authorities. Their views coincided and confirmed mine, that in the unique circumstances of Gibraltar the ruling continues to be the best possible in our situation. It is obvious that the rules and practices governing the admissibility of questions are many and complex. I do not interpret them as intended to inhibit Members but to ensure good order with maximum freedom or speech in the Assembly. Therefore, Members, if in doubt, should give notice of the Question and let the Clerk offer guidance if required before it is passed to the Speaker to approve, amend or reject in accordance with his opinion as explained above. Needless to say the Clerk and the Speaker are always available for assistance on all procedural matters. The authority of the Chair is defined in section 51 of the Standing Orders. It makes the Speaker responsible for the observance of the rules of order and categorically states that his decision is not open to appeal and shall not be reviewed by the Assembly except upon a substantive

Motion made after notice. Finally, I know, from personal experience as a former Chief Minister, that some questions require considerable research if an accurate answer is to be provided. In the interest of accuracy and to avoid inadvertent misleading answers it is advisable that Honourable Members give notice of questions as early as possible. I hope this explanation will help Honourable Members make question times in this House of Assembly serve fully their intended purpose. I will now take short questions on points of clarifications only if Honourable Members have any.

HON F VASQUEZ:

Mr Speaker, do you intend to hand out copies of your ruling?

MR SPEAKER:

Yes. I will give you a photocopy of this.

HON CHIEF MINISTER:

Mr Speaker, can I just point out for the record, because in the statement you make a reference to the fact that the number of companies was increasing, that in fact this is not the case since the general election of 1992. That is to say that the number of companies today, other than the one company about which there is a question which is Air Gibraltar, is the same as it was before the general election when members were elected for the first time.

MR SPEAKER:

I really apologise for misleading the House in that respect. I thought that they had gone up in numbers.

HON P R CARUANA:

By way of clarification also, Mr Speaker, whilst your summary of the Standing Orders is most helpful, I think if any hon Member is in doubt as to what Standing Orders say on a particular subject it may be because Standing Orders have fallen so behind the times in terms of printing. For example, in the copy of the Standing Orders that were officially distributed to the Members of the Opposition when they were first elected, Standing Order 13(2) says that for the purposes of counting the five days of notice for questions, only Sundays and Public Holidays, not Saturdays, would be excluded. That is what the Standing Order that we were distributed with officially by the House says. It appears that there is somewhere in the building a copy of Standing Orders in the margin of which somebody has scribbled "Saturday". I have not been long enough in this House, Mr Speaker, to know how formally or informally Standing Orders are changed but certainly it would help if copies of Standing Orders, officially distributed to hon Members were accurate.

MR SPEAKER:

Again I think it is partly my fault there because I should

have seen to that earlier. In fact the previous Attorney-General was looking at the Standing Orders to have them printed out but he left before he did that. I tried to pass a message to the present Attorney-General. I do not know whether he got it and whether any progress was being made. I just wonder if the Attorney-General knows anything about it.

HON ATTORNEY-GENERAL:

Mr Speaker, I will certainly look into this matter now that it has been brought to my attention.

MR SPEAKER:

I will certainly see to that and make sure that you have a properly amended one as soon as possible. The one that I have and the one I was given when I first came here certainly had Saturday written in and therefore quite honestly I assumed that all of them had the Saturday in.

DOCUMENTS LAID

The Hon the Minister for Labour and Social Security laid on the table the Employment Survey Report - April 1992.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the table the Rates of Tax (Amendment) Rules 1993.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 5.00 pm.

The House resumed at 5.20 pm.

Answers to questions continued.

The House recessed at 7.10 pm.

TUESDAY 16TH MARCH, 1993

The House resumed at 10.20 am.

Answers to questions continued.

MOTIONS

HON R MOR:

Sir, I have the honour to move that: This House approves by resolution the Statistics (Employment Survey) (Amendment) (No.2) Order, 1993.

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

HON R MOR:

Mr Speaker, the main purpose of this motion is to enable the information collected for the production of labour statistics to be drawn from existing data already held by Government departments. At present, the Labour Survey Reports show the position at April and October this year, based on returns of questionnaires filled in by employers. Normally, a lot of work has to be put into following up the failure to make the returns and therefore the analysis of the information collected cannot be undertaken until six to nine months after the date to which it refers. This is further holding up the calculations that go into computing the national income figures for the Gibraltar economy. It is also the case that there have been discrepancies in the figures shown in this survey and figures from other sources and it has never been possible to establish the reason. These changes are intended to improve the accuracy and intended to improve the reliability of labour survey reports and national income accounts and also it is intended to reduce the amount of paperwork that private sector employers have to contend with. For the avoidance of any doubt, Mr Speaker, let me say quite categorically, that in no way will the confidentiality of the information be affected and the information will be subjected to exactly the same rules as has been the case since labour survey reports were first produced over twenty years ago. Mr Speaker, I commend the motion to the House.

MR SPEAKER:

Would any hon Member now like to speak?

HON P R CARUANA:

Mr Speaker, the Opposition does not support the motion. The Employment Survey is the only employment statistics available other than questions that may be put from by the Opposition as we put regularly as to the numbers of unemployed. But the Employment Survey is the only officially produced and voluntarily produced employment statistics that issue from the public administration. It is now published twice a year. The Order, or the proposed amendment to the Order, would require them to be published only once a year and whereas now they are published twice a year as at April and October, the proposed amendment would call for them only to be published once a year but relating to both April and October. So, although we get the same information, we only get it in one dose and not in two doses. Yesterday we had tabled the Employment Survey as at April 1992, almost one year ago. Those statistics are now almost one year old. Under the new rules, we would

therefore only get the survey as at April and October 1993 in October 1994, if the Government persisted in taking about a year to publish the information. That would be going only by historical practice, it takes about 12 months to produce the statistics as we are getting the April 1992 statistics in March 1993. If the statistics were therefore produced only once a year as at April and October, we would, in effect, get the April figures 18 months out of date because April would pass, we would get no figures, October would arrive, Government would then take a year as it is now taking and that year would be 18 months from April. So the result is that the information that this House and the general public would get would be even more out of date than it now is, so we get it less frequently and more out of date. The Opposition does not see why when we are in a position that we call for Government to publish increasing amounts of information that we can reasonably be expected to support an amendment, the obvious and immediate effect of which, is to delay the publication of information and to require that information be published not more frequently but less frequently. Mr Speaker, my final point is this, that in other places governments publish, for example, in the United Kingdom, employment statistics on a monthly basis. This proposed amendment to the Employment Survey Order, represents an example of this Government moving in the opposite direction. In other words, not producing more information or monthly information, but providing information with more delay and less frequency. As the Minister for Labour and Social Security has said, thanks to some of the regulations that the Gibraltar Development Corporation and the bodies established under that Ordinance, the Government now has available to it the sort of information for which it previously needed to do a survey. The Government no longer needs to do a survey to see what changes there are in terms of employment because we are now all required to inform the Government of every change in the labour market that contributes to those changing trends. There is therefore now no logical reason, presuming that Government keeps all that information in a reasonably assessable fashion, why the Government, far from making this information take longer to produce and wanting to give it only once a year instead of twice a year, cannot now adopt the practices of most other governments in Europe and publish employment statistics. I would like them monthly; quarterly would be a substantial improvement on what we have got at the moment and therefore there is no merit to this Order. There is no merit to this proposed amendment. It represents a further attempt by the Government to further delay the publication of information of public interests and the Opposition will therefore vote against it.

HON CHIEF MINISTER:

Mr Speaker, as far as we are concerned, the reason why we are bringing the resolution to the House, is because we have been told that as the Ordinance stands at present, we would not be able to produce the information using the

new facilities that have been put in place recently. In fact, it is true that it takes about one year to collect the information with the system that we have got at the moment and therefore we ourselves do not get it any quicker than the House does. The survey that has been presented to the House now which deals with April last year was brought to the Government maybe a month ago or something like that. With the new ways of collecting it, we would not be expecting to have a situation where it takes longer; we would be expecting the situation to take less time. So what the House would have, hopefully, for the Estimates of Expenditure of next year, would be a report which would show the position at April and October, not the previous October, the subsequent October. So, ideally what we would want to have ourselves and what we would hope to be able to achieve with this is a more recent picture of the economy which will show when we are looking at the economy over the next twelve months, what the position was twelve months ago and six months ago.

HON P R CARUANA:

Will the Chief Minister give way?

HON CHIEF MINISTER:

Yes.

HON P R CARUANA:

Mr Speaker, one of the points that I made in my address, although the Chief Minister may have been distracted at the time, but perhaps the Minister for Labour and Social Security will reply to the point, is that given the regulations that now exist under the Gibraltar Development Corporation Ordinance specifically the Employers (Contractual Terms of Employment) Regulations and other regulations in that vein, Government really now has available to it, almost instantly, the statistics from which to compile a large part, admittedly not all, of the information that is contained in the Employment Survey. It can certainly give information about the levels of employment. It can certainly give information about the levels of unemployment and the number of jobs that have been lost, on the assumption, of course, that employers are complying with their obligations under those regulations. Therefore, Mr Speaker, I would like to see the Government moving to a situation, not of annual surveys or annual statements, which of course, are also welcomed to the extent that all information is welcomed, but of more regular production of at least the sort of information that they have available to them now thanks to the operation of these new regulations.

HON CHIEF MINISTER:

I accept what the hon Member is saying about what we ought to be able to do. We have not yet succeeded in doing it, although, in fact, the main purpose of collecting this

information is precisely to be able to have more data on which to take policy decisions. We have tried a number of mechanisms to ensure the accuracy of the data. One of the problems that we have, for example, in the registration of employment contracts is that whereas the employment surveys are supposed to be almost like a still picture. We should take on April and in October, and you say to everybody "How many people have you got working today?" They tell how many people they have got working on the 1 April and how many people they have got on the 1 October. That shows what is happening on those two days in the year but not inbetween. The records that we have in the Employment and Training, show when people come in, but it does not necessarily show when people go out. This is something that we had also problems with using the social insurance records which we tried to use before. We do not really know how many people there are working until the social insurance records are exchanged in January and it is now March and we are still chasing people up to exchange the insurance cards of January. So, if we do not get all the insurance cards exchanged until May or June, for the preceding December, by the time we process that information, we are in a year. We hope that this will enable us to access information from a number of different sources and therefore the Government Statistician will be able to cross-reference that information and come up with more accurate pictures. At the moment, I have to say that for as long as I have been in the House, I could not understand when I was in the Opposition, why it was not possible in an economy as small as ours to get one single figure of what was the working population in Gibraltar. Instead we had four figures. We had the figures produced by employment surveys, the figures produced by work permits, the figures produced by PAYE records and the figures produced by social insurance records. We hope there will be an improvement in the quality and the reliability of the statistics. Until we try it we will not know so we have to keep an open mind about whether we might need to keep the surveys going when we test the other system.

MR SPEAKER:

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

HON R MOR:

Mr Speaker, just one point. The basis for the opposition to the Order has mainly been really on the length. The Opposition is assuming that we will now take as long as we did before in producing the figures. Our thinking is that we should now have the information more readily available and more accessible and that should quicken up the pace at which the information is produced.

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 Blackburn Gittings
The Hon E G Montado

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The motion was carried.

BILLS

FIRST AND SECOND READINGS

THE BANKING (AMENDMENT) ORDINANCE, 1993

HON CHIEF MINISTER:

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

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

SECOND READING

HON CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill simply adds to the list of entities that do not require to be issued with a licence by the Financial Services Commissioner; the Gibraltar Savings Bank. The House will recall that we brought a Bill to the House which Opposition Members were against, which was intended to legitimise the deposit-taking functions of the Gibraltar Savings Bank, at the same time we changed the name from the Government Savings Bank to the Gibraltar Savings Bank. We explained that all that we intended to do was to make sure that it was able to operate unchallenged because, in our view, an oversight on the part of the United Kingdom had not provided for the Gibraltar Savings Bank not to require a licence in the initial directive of 1977 as with every other Savings Bank in Europe. The Opposition Member tried to read into this something that was not there,

even though I was at pains to reassure him that this was not an attempt, as he claimed, to convert the Savings Bank into a commercial clearing bank type organisation to undertake other types of activities. We have discussed the position with the Financial Services Commissioner and the Commissioner feels that the only way he can issue a licence is to get the bank converted into a commercial type organisation, which we do not want to do, which I told the House when we amended the Bill, it was not our intention to do and because it is not our intention to do it, it is not the policy of the Government to do this and it is not the policy of the Government to take the Savings Bank out of the civil service. Therefore, we are not prepared to change the structure of the bank if that is, in the view of the Commissioner, the only way he can issue a licence and therefore we are providing for the Savings Bank, in our law, not to have to comply with such a structure and not to be licensed as a commercial bank because, as I have said, it was never the intention to go down that route. If and when the Government of Gibraltar decides to have a national bank, which was in the 1988 manifesto, it will set up a separate organisation to do it. I commend the Bill to the House.

MR SPEAKER:

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

HON P R CARUANA:

Mr Speaker, I have to say that I do have concerns about the extension of this exemption to the Gibraltar Savings Bank and I suppose that my concerns have been encouraged, to an extent, by certain regulations that have been passed, referred to, incidentally, in the regulations tabled by the Minister for Labour and Social Security at the outset of this meeting whereby the Gibraltar Savings Bank is preparing to issue something called a development bond. Although I accept that I am simply speculating on the basis of my interpretation of what the Government is trying to achieve by that, it seems clear that what the Government is preparing to do, is to use the Gibraltar Savings Bank through the issue of development bonds to raise money on behalf of the Gibraltar Savings Bank and that now, as we all know, the sufficient mechanism exists, given that that is a special fund for the transfer of monies so borrowed by the Gibraltar Savings Bank to another special fund. This mechanism would enable, I put it no more strongly than that, the Government, in effect, to borrow money without the sanction of or information to this House. If the Gibraltar Savings Bank is going to be used for the purposes of borrowing money, then I think, that it would be a different role to that which it has previously and historically served, which is as a Post Office Savings Bank to give the citizens of Gibraltar an easy, cheap method of operating a savings account. The Gibraltar development

bond, if and when issued, might be the same sort of instrument as is presently issued directly by the Government in the form of Gibraltar Government debentures. Therefore, the Savings Bank is about to borrow money in the market place, either from Gibraltar residents or elsewhere, following the Development Bond Regulations of 1993 and the consequent tax concessions that have been made to it for tax liability payable by interest receivers thereunder. If it is going to be used for the purposes of the issue of bonds which is in effect borrowing money by the Savings Bank, then, that is a commercial operation or could be developed into a commercial operation whereby the Gibraltar Savings Bank is, in effect, raising money in the money market, borrowing money for the purposes and use of the Government of Gibraltar given that the Savings Bank has no use for the money itself. Unless of course, it is going into the business of operating as a bank because we all know that banks borrow money on the market place in the hope of lending it to others at a higher rate of interest. So one way or the other, the borrowing of money by the Gibraltar Savings Bank on bonds suggests that it is straying or that it will be used for a purpose which is not the same as the purpose for which it is historically been used. The legislative proposal that we are now concerned with is to exempt the Gibraltar Savings Bank from the operation of the Banking Ordinance - which after all is designed to protect people that lend their money to the banks because the whole concept of the Banking Ordinance is to protect depositors who deposit monies with banks and that that is not a question of reputation because at the end of the day, there are highly reputable banks that are the subject of the Banking Ordinance. If that is the purpose of the Ordinance, we ask ourselves what is the need to exempt the Gibraltar Savings Bank from the operation of the Banking Ordinance. We ask ourselves whether the Gibraltar Savings Bank has available to it the management resources that will enable it to succeed in an application for a licence and if it can, why does it not want to? Whether it can or it cannot, the effect of this vote would be to exclude the Gibraltar Savings Bank from the supervisory function that the Banking Commissioner imposes on other banks or should impose on other banks in relation to these deposits. So, I accept the Chief Minister's words by way of introduction that if the Savings Bank were going to operate as savings bank normally do and of course savings banks do lend their money to Governments. Savings banks around the world, in the United Kingdom in particular I know, when they take money from depositors do not leave it on their accounts, they may well lend it to the Treasury, but it is the intention to develop the instruments for borrowing money by the Gibraltar Savings Bank away from the straightforward savings account holders to possibly people who will buy bonds issued by the development bank that I think places the Gibraltar Savings Bank in a different category. Therefore, Mr Speaker, I am sure that these are points that the Chief Minister may clarify in a subsequent stage of this Bill. For the time being, the Opposition will abstain at this stage of the legislative proceedings to see if the Chief Minister can offer some explanation in relation to those points which would enable us to support the amendment.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, I do not intend to address the points in order to get the hon Member to vote in favour instead of abstaining. I think it is a complete waste of time to try and give him any explanations at all in this House. The last time we amended it, he opposed the Bill, using a lot of arguments about why it should not be converted into a commercial bank and operate in competition with other banks as a commercial entity. In fact, even though I told him we were not doing that and that he was voting against a Bill on an assumption of what he thought it was doing irrespective of the fact that there was nothing in the Bill to say that it was doing it and there was nothing in the Government's definition of the purpose of the Bill to say it was doing it. I remember saying to the hon Member in the course of that debate, which took place only a few months ago, that he had obviously made up his mind what his speech was going to be about what we were going to do and whether we were going to do it or not, he was going to go ahead and do it and he has just done the same thing. I have just told him that we are not converting it into a commercial bank which would make him happy because that was his opposition before. Now he says he thinks we ought to have it as a commercial bank and make it subject to a licence and have it supervised by the Financial Services Commission. By coincidence and of course it cannot be a coincidence, it is a deliberate decision of the Government to table in this House the sale of bonds to give him the opportunity to be suspicious because otherwise how would he survive? So we put it deliberately there so that he will try and read some machiavellian plot into it. That means that we are now issuing bonds which means that we are not doing the traditional role that Post Office Savings Banks do for small savers. That is why he feels that this is a departure and that he needs to have an explanation. Well I am afraid the historical function, which he is talking about, stopped in 1987. We have been issuing bonds since 1988. What is the point of the hon Member keeping on insisting about he wanting accounts, wanting information; he does not read the stuff we give him. He has had the audited accounts of the Savings Bank now since 1988 and he thinks we are now going to issue bonds for the first time. All the debentures are issued by the Savings Bank, not by the Government. The debentures sold to the public every day of the week are sold by the Savings Bank.

HON P R CARUANA:

Sold by the Savings Bank - not the issuer.

HON CHIEF MINISTER:

The issuer is the Savings Bank.

HON P R CARUANA:

The Government of Gibraltar.

HON CHIEF MINISTER:

No! The Savings Bank. It is in the accounts of the Savings Bank. It is not in the accounts of the Government. All he needs to do is to go there to Main Street and ask for an application form and he will see that the heading is "Gibraltar Savings Bank Debentures" before these bonds. It has been going on since 1988. Where has he been living? The only difference is that these bonds may get sold in Sotogrande in which case he will then know who is selling them. I commend the Bill to the House.

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

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

The following hon Members abstained:-

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON CHIEF MINISTER:

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 FINANCIAL SERVICES (AMENDMENT) ORDINANCE, 1993

HON M A FEETHAM:

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

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

SECOND READING

HON M A FEETHAM:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the short Bill does exactly what the Explanatory Memorandum says. Section 49 of the Financial Services Ordinance is concerned with penalties for an offence. Clause 3 of the Bill, first of all, turns the existing section 49 into subsection (1) of section 49 and then puts in a new subsection (2). This new subsection gives to the Authority, which in practice is the Commissioner, a power comparable with that of the Collector of Customs under the Imports and Exports Ordinance or the Licensing Authority under the Licensing and Fees Ordinance to stay or compound proceedings for an offence under the legislation. This is recognition that there may be occasions on which either because of the trivial nature of the offence or because, for example, the difficulties of a successful prosecution in circumstances where the public interest would not be damaged by failing to prosecute, it would be appropriate for the Authority to either cease proceedings or to itself impose the penalty without the need to proceed to court. This does not, Mr Speaker, however remove any civil rights. An individual who is offered the opportunity of having proceedings stayed or compounded does not have to accept the opportunity. This is merely a power to the Authority to exercise a discretion to offer such an opportunity in circumstances where the Authority deems it to be appropriate. Electing not to proceed to prosecution or deciding to proceed to prosecute still lies in the control of the Authority. Mr Speaker, I repeat, in the authority of the Commissioner. The only restrictions on the exercise by the Authority of that power, is that it shall take into account the provisions of subsection (1). This means that in deciding where it is appropriate to stay or compound proceedings and in deciding penalties payable, where there is a decision made to compound any proceedings, the Authority shall have account of the penalties which might otherwise been imposed if the matter proceeded to a prosecution. Paragraph (b) of the proposed new section 49(2) provides that where proceedings have been compounded, penalties payable shall be payable to the Authority and retained as part of the revenue of the Authority. The amendment to section 56 is to extend the matters which by virtue of that section and section 53, may be dealt with by regulations. The extension is confined to allowing for the fixing of fees by penalty in respect of failure to comply with the provisions, regulations or rules made under that Ordinance. The power to fix penalty fees is confined to offences against subsidiary legislation and essentially concerned with trivial matters, for example, late filing, failure to provide the proper returns etc, where clearly compliance is important but it would probably be inappropriate to prosecute unless there is clearly any fraudulent intention. Clauses 2 and 5 correct minor errors in the legislation. Clause 2 corrects

an incorrect reference to the Companies Ordinance and clause 5 inserts a missing marginal note and redesignates what had erroneously appeared as subsection as a paragraph of the preceding subsection. The Bill is essentially concerned with ways to make more effective the administration of a very important part of the supervisory legislation of the financial centre and I therefore commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, very briefly. Although in general sentiments, the Opposition does not have much difficulty with this Bill, there is one aspect of it which causes the Opposition some concern and from which the Opposition will withhold their support. That is basically the contents of clause 3 inserting the new section 49(2)(b) into the Ordinance. The Minister, Mr Speaker, started his address by saying that the Bill does exactly what the explanatory memorandum, attached to the Bill, says. It does a little more because the explanatory memorandum does not refer to that new clause, as section 49(2)(b), which empowers the Authority to retain penalties levied under that section. Mr Speaker, the enforcement of the criminal law in a well ordered society should, as far as possible, be left in the hands of a competent prosecuting authority applying the law firmly and impartially. This is especially true in relation to offences carrying substantial penalties and fines. Section 49 of the Financial Services Ordinance, Mr Speaker, provides fines up to £25,000, which obviously are some of the highest fines in our local legal system. What is even more pernicious, Mr Speaker, is that an authority tasked with bringing prosecutions should have a vested interest in the levying of fines. Nothing undermines the individual's confidence in the fairness of the law more than the knowledge that the person who is levying the fine against him stands to profit on the fine that he is having to pay. I think I can refer to that, Mr Speaker, as the Gibraltar clamping syndrome. What aggrieves the local motorists most in the clamping situation, it is not so much that he has been clamped and he has to pay a fine, the fact that the clamping authority in Gibraltar is making money out of that clamping and it is a state of affairs, Mr Speaker, which often gives rise to suspicions that the clamping authority is victimising the motorist or that it is acting over zealously. Similar sentiments, Mr Speaker, would invariably arise and be felt by individuals or companies being dealt with under this section in the way provided by the amending Ordinance. This does not go well, in the Opposition's view, for the proper administration of the local finance centre or indeed for the reputation of the finance centre. It seems improper and inappropriate that the Authority should retain monies that it has raised in fines and penalties. It seems much more appropriate to have the Authority to continue to raise

its income to meet its running expenses through its licensing procedures. The Authority already has a substantial income from the substantial licences that it raises which gives rise to considerable income and if further income is necessitated by the Commission, it could and should part from Government funds. This the Opposition feels is the price that Government and the local community should pay for the attainment of a properly ordered and administered finance centre. Fines, levies and penalties raised under the Ordinance should, in the view of the Commission, continue to be paid directly to Government and that is the view of the Opposition and for that reason, Mr Speaker, the Opposition cannot support that proposed amendment to the Ordinance.

HON P R CARUANA:

Mr Speaker, in support of the point that my hon Friend has made, Government could always make available a subsidy to the Financial Services Commission in the amount of fines that the courts of Gibraltar had collected or that had been collected. Government can do this as an internal accounting exercise. I think, the doubtful practice is in the finer being able to pocket the fine directly for purposes of his own. In this case the purposes are perfectly proper: the work of the Financial Services Commission. But there is a direct link. The person levying the fine stands to gain, since the Financial Services Commissioner would presumably be anxious to have as many funds as possible, from levying fines and we think that that is a non desirable connection between the administration of the law and benefiting from the funds that are raised. There is a further point, Mr Speaker, which I would like to raise as a matter of principle and then leave to deal with in detail at the Committee Stage and here I confess that we failed to take the same point when there was a similar amendment in relation to another Ordinance. We amended the Licensing and Fees Ordinance a few months ago to enable the Trade Licensing Authority to compound offences and fines under that Ordinance. But I think, on reflection, there is a point of principle that arises here. That is that under the Constitution, under the laws of Gibraltar, the authority that brings prosecutions in the first place is the Attorney-General. He is the man and there is nothing in this Ordinance that gives the Authority the right to bring prosecutions. The Authority would be the complainant and the Attorney-General is the only person who under our Constitution has the legal authority to decide whether prosecutions should be brought or not. What this section does is give to the Authority the right to compound criminal proceedings that have been instituted by the Attorney-General and we think that that is not a proper basis upon which to do it. Certainly the Authority as the complainant, could be given these sort of powers but in order to respect the legalistic formalities and to keep the legal provision within the scope of the Constitution, we shall be proposing to the Government at Committee Stage, that the words "in its discretion"; which really adds nothing to the Bill in the sense that if they do it presumably they have done it in exercising the discretion; should be amended to read "the Authority may with the consent of the Attorney-General".

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, first of all this Bill is not there as a machinery that will create income for the Financial Services Commission. The emphasis is not that. The cart is being put before the horse. The emphasis is to expedite; to improve the machinery in dealing with trivial matters that can best be handled, in the judgement of the Commissioner, by him imposing a penalty. It would be in the judgement of the Commissioner; the Authority, in any particular case, if he feels it necessary to proceed to prosecute, to indeed go along to the Attorney-General and follow the matter through in that case. What we are talking about are issues, like, I have already explained, not filing returns and so on on time, that would take an awful lot of time of the enormous burdens that are already in the courts by dealing with matters in an efficient and agreeable way. It does not settle it. If a person still feels aggrieved he can always turn round and say "I have got a better case than the Commissioner is putting to me and I wish to be prosecuted and I will defend myself", which will obviously give an opportunity to the members of the legal profession there to defend the cases of those particular clients. This for us is fairly a housekeeping exercise that I think will assist in the running of the Commission. It certainly will assist the courts because it will take away a fair amount of trivial matters and it is certainly not aimed as a means of raising revenue for the Commission per se. That we are allowing this to be the case is for us a matter of political decision. We feel that the revenue gained by that should go to the Commission because that is the best way of dealing with the matter. I will give way.

HON P R CARUANA:

Mr Speaker, let me hasten to add, that the Opposition have no difficulty with the substance of the proposal, which is to facilitate the settlement of infringements. In other words, if somebody is accused of an infringement of a technical piece of legislation and that they accept that they have infringed, that they are subject to a fine, they agree to pay it and they pay it. We have no difficulty with that as an exercise. All that we have said in relation to the mechanics is that because it is the Attorney-General and only the Attorney-General that brings the prosecution and remember that this speaks of staying proceedings. That means proceedings in court for a breach of the law of Gibraltar. Only the Attorney-General can discontinue those proceedings and when the Financial Services Commissioner goes to the Supreme Court of Gibraltar and says to the Chief Justice, "I withdraw this prosecution", I fully expect the Chief Justice to say "And who are you to discontinue these proceedings, Mr Financial Services Commissioner? Only the Attorney-General who commenced these proceedings can

discontinue them". Sorry about giving on this particular point the impression that we object to why it has been done. It is very sensible to have mechanisms that decongest courts. It is not that we insist on it going to a criminal trial, all we are saying is that the mechanical formalities are to be observed and that the Attorney-General somehow has to be a party to the decision to discontinue and to the implementation of that decision to discontinue. Of course the Government may have received and have accepted advice to the contrary, that the Authority by itself, even if it is correct to give them the discretion to discontinue criminal proceedings and take it away from the Attorney-General, and even if it is correct to transfer that function from the Attorney-General to the Authority, in fact, the Authority would be hard-pressed to be able to implement it in court. Therefore, what we are suggesting in that regard is the potential improvement and in no way seeking to undermine from the substance of the legislative provision.

HON M A FEETHAM:

Mr Speaker, if there is a valid point in the argument which has been put forward by the hon Member in legal terms, of course I am prepared to look at the point that is being made. As far as I am concerned, from the knowledge that I have of what is the intention, it will always be done in consultation with the Attorney-General's office. It has always been done in that way and one would assume that perhaps why it has been drafted in this way is in terms of protecting the position of the Commission itself. It may need initially to make a level of proceedings in the case and that some cut-off point have been able to decide to stay off the prosecution. But obviously, this will be done in consultation with them but if a point is being made, which is valid, I have no hesitation in looking at that and see whether it will improve the intention of the Bill in any way.

MR SPEAKER:

The idea is then that if you produce something at Committee Stage, the Government is willing to listen to 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 Blackburn Gittings
The Hon E Montado

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

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 SOCIAL SECURITY (NON-CONTRIBUTORY BENEFITS AND UNEMPLOYMENT INSURANCE) (AMENDMENT) ORDINANCE, 1993

HON R MOR:

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

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

SECOND READING

HON R MOR:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, apart from some minor amendments, the main purpose of the Bill is to allow the Government to introduce greater flexibility in the methods of payment of unemployment benefits if it considers that changes are needed to respond to the changing nature of the jobs market. At present the system for the payment has not changed since it was introduced other than for the payment of lump sums to those who claim it and are non-European Community nationals and this was introduced a few years ago. The new powers will allow action to be taken to introduce changes in procedures and methods of payment as and when required in respect to the changes taking place in the labour market and place the Government in a better position to deal with the unemployment situation. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, put as the Minister has put it, the Opposition might even be prepared to support the Bill, because in principle, what it is trying to achieve is not a bad thing. But what we certainly cannot accept and will not be

supporting and we will be voting against the Bill, is because of the methodology that it introduces. The Bill has four clauses, Mr Speaker, and the first one is the title. In the other three it sets out to achieve three different objectives, all of which, we cannot support in the way it is been sought. The Minister, Mr Speaker, has made what is probably the understatement of the year, when he said that the principle aim of the Bill was to give the Government flexibility. It does a lot more. It gives the Government a lot more than flexibility. The main object, as the Minister has said, amends section 16 of the original Ordinance whereby the Governor may make regulations for carrying out the Ordinance and extends that clause, Mr Speaker, in effect to give the Government powers to change the existing Ordinance by regulation; powers to decide who is eligible for unemployment benefits; how these can be paid; who they can be paid to; the timing of such benefits and all of these can be done by regulation and without reference to the originating Ordinance. If for nothing else, for that, the Opposition could not support this Bill. The Bill goes further. It also introduces the concept which we have objected to more than once and I will not go into details but it has caused the introduction of fines with reference to a level on the standard scale for which our reasons for objection are well known. Finally, Mr Speaker, the Bill also seeks to give the Government flexibility in deciding at what point a man who is married or fully supporting his wife and is unemployed receives benefits taking into account the income of the wife. What we object to here, Mr Speaker, is that whereas the figures for unemployment benefits are clearly laid out in the schedule to the Ordinance, the introduction of the words "or any such amount as the Governor may by notice in the Gazette specify", now gives the Government the chance to make it more difficult for an unemployed person to gain benefits without taking the opportunity to make a similar change in the levels of unemployment benefits by introducing the same words in the schedule. So, on all those three counts, Mr Speaker, the Opposition will be voting against.

HON P R CARUANA:

Mr Speaker, and very briefly and again, in an attempt to improve the legislation rather than to address the political objections, and on a point of principle; so hard, Mr Speaker, has the draftsman tried to make it difficult for anybody to object to this by the use of such phrases "and in the interests of the employment situation in Gibraltar", as if anybody could possibly vote against a piece of legislation that contains that worthy sentiment. I think that the draftsman has shot him or herself in the foot, in the sense, that for the regulations now to be legal, for them to be intra viris the Ordinance, it now, as a matter of objective evaluation, got to be in the interest of the employment situation in Gibraltar. Obviously, the Government believes that that is in the interests of the employment situation as they understand it, which is of course how it would normally operate, but they have not allowed themselves that discretion. What they have said is that for these

regulations to be made, there have got to be regulations that are in the interests of the employment situation in Gibraltar. Who is going to decide whether particular regulations that the Government tries to pass under this Ordinance, are in fact, not in the Government's opinion, which is how it should be drafted, now up to objective discussion by presumably a court. So, if somebody were to challenge the legality of these regulations; if somebody were to ask the court to make a decision as to whether these regulations are valid under the Ordinance, the court would have to decide whether they are in the interests of the employment situation in Gibraltar and it seems to me clear that if the Government wishes to safely exercise the discretion that seeks to give themselves by this amendment, it ought, in my humble opinion, to make it clear that the interests of Gibraltar, for these purposes, are to be determined by them under their discretion and not by operation of law.

MR SPEAKER:

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

HON R MOR:

Mr Speaker, we have taken note of what the Leader of the Opposition has said and we will seek advice and deal with it in the Committee Stage.

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 Blackburn Gittings
The Hon E Montado

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON R MOR:

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

This was agreed to.

THE MAGISTRATES' COURT (AMENDMENT) ORDINANCE, 1993

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Magistrates' Court 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. There are two amendments to this Bill which probably are without controversy. The amendment to section 44 makes it now mandatory for the court to order costs either for a successful complainant or a successful defendant, unless to do so would not be just and reasonable. That basically removes the discretion formerly vested in the court regarding costs and the small amendment to section 65 removes time limits on pursuing maintenance arrears. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Yes, briefly, Mr Speaker. The Opposition will be supporting this Bill. Obviously it is non contentious, particularly in its provisions in relation to the recovery of maintenance arrears.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

No reply.

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.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Friday 30th April, 1993, at 10.30 am.

Mr Speaker proposed the question which was resolved in the affirmative and the House adjourned to Friday 30th April, 1993, at 10.30 am.

HON P R CARUANA:

Mr Speaker, I would like to put a question formally. Given that we have completed the agenda, are we to assume that there will be a new meeting of the House?

MR SPEAKER:

The meeting continues. The Committee Stage still remains.

HON P R CARUANA:

Well the Committee Stage is not in the agenda. I have an agenda here in front of me "Reports of the Committees", but it does not say in respect of what Bills.

MR SPEAKER:

On the original agenda which was for the sitting that we thought we would carry on and finish had everything. This was amended purely for this sitting. We are still on the same meeting.

HON P R CARUANA:

Mr Speaker, but this is a notice of a meeting of the House of Assembly and this is an agenda not for a sitting but an agenda for a meeting and the agenda has no Committee Stage, no Bills, in respect of which the Government wishes to take to Committee Stage and therefore the agenda for this meeting has been concluded. Therefore, on the basis of the rules of the House, the agenda having been concluded, all business on the agenda having been concluded, the meeting is terminated and the next sitting of the House constitutes a new meeting.

MR SPEAKER:

No, this is a continuation of the sitting of the meeting and this is the way it is. If there has been any technicalities; if there has been any technical error, I cannot accept that as being a ruling to change the purpose of the meeting which started as we know.

HON P R CARUANA:

Mr Speaker, then I must formally protest, as a point of order, to the Opposition being given one agenda and the Government being given another agenda. Either there is an agenda or there is not. We have an official agenda, given to us by the House and the business on it is concluded and I must ask, Mr Speaker, that you please make a formal ruling in writing on this question.

MR SPEAKER:

If you would like to see the proper agenda, which I have in front of me.

HON P R CARUANA:

Then I have the improper agenda.

MR SPEAKER:

What has happened is that to facilitate you with the meeting, the Clerk, I am sure, extracted from that agenda what was actually going to be dealt with today, what was going to be the business of the day today. That was the purpose.

HON P R CARUANA:

Mr Speaker, I have to say frankly, and with the greatest of respect to whoever has done it, first of all that it is entirely unorthodox, secondly, that it is entirely unsatisfactory and unacceptable that there should be an agenda in existence of which the Opposition Members of the House are not made aware. We are working to an agenda which we are given and when we finish the agenda, we are told, "No, that is not the agenda, there is another agenda which I have here somewhere in my file, which says something quite different". Mr Speaker, if that is what has happened, then I have to say that the agenda that we have before us has finished and I must ask, Mr Speaker, with the greatest of respect to the Chair, that we have a ruling from you in writing, as to the validity of this agenda and whether the Bills on it.....

MR SPEAKER:

I will gladly discuss the matter with you if you so wish.

HON P R CARUANA:

I have asked for a ruling in writing.

MR SPEAKER:

I can give you the ruling straightaway. The ruling is that the meeting continues, that this has been a sitting, the end of the sitting is done now and we are going to adjourn to the date of the next sitting. That is my ruling and that is it.

HON P R CARUANA:

On the basis of what adjournment?

MR SPEAKER:

On the basis that the agenda that we have for the meeting, included other items.

HON CHIEF MINISTER:

If the Opposition Member wishes to disrupt the work of the House by being technical, and I will have to take advice on this, let me say, it seems to me that all that we need to do, if that is what he wants, is we do not adjourn to the 30th April today. We adjourn until Friday morning to continue with the Committee Stages of the Bills and after we have done one Committee Stage of one Bill, then we adjourn to the 30th April and that will be the end of the story. There is no rulings needed.

HON P R CARUANA:

But, Mr Speaker, there are no Bills on the agenda for the taking of Committee Stage.

HON CHIEF MINISTER:

So the hon Member thinks that now that we have ended the meeting, it means we are not going to take the Committee Stages and the Bills never become law.

HON P R CARUANA:

At the next meeting.

HON CHIEF MINISTER:

No, why?

HON P R CARUANA:

As we have done with the shipping laws.

HON CHIEF MINISTER:

No. Mr Speaker, on each Bill, we have voted that the Committee Stage will be taken later on in this meeting and they have all voted in favour.

HON P R CARUANA:

You may want to abandon the Bills.

HON CHIEF MINISTER:

Sure. I would abandon the Opposition not the Bills.

MR SPEAKER:

Order. We have come down to the practical way of dealing with the business of this House. If there has been an error on the part of the Clerk in extracting parts of the agenda to facilitate the business of the day to the Opposition and by mistake he has put their agenda and not a continuation of the agenda, well we will make sure that this does not happen again, but, I can assure the Leader of the Opposition that the intention right from the beginning was that this was a meeting of the House. In fact, as it has been pointed out, they themselves agreed to take this matter later in the meeting and so it shows that everyone thought that this was going to carry on as a sitting.

HON P R CARUANA:

With the greatest of respect, what it shows, is that we were fully expecting the Chief Minister to call for the adjournment of this sitting before he got to the fourth Bill on the agenda, as he always does. It is he that has brought the meeting to the point where, as we all said before, becomes unusual. Normally, what would have happened is that he would have interrupted this sitting and he would have adjourned the House before coming to the fourth Bill on the agenda of First and Second Readings. It is only when I have notice that he had no apparent intention of doing so, that I said that if he allows the agenda to come to a conclusion, it is the end of the meeting, in accordance with the practice of this House since long before I became a Member of it. If the agenda of Government business is completed, in accordance with the agenda before the House, the meeting finishes and the next sitting of the House is a new meeting.

MR SPEAKER:

The agenda, as I have it, continues and if by mistake the wrong extract of the agenda have been given, which is not complete of the whole agenda, as it was intended from the beginning of the meeting, I accept that this is an error that will not be repeated, but this does not change my ruling that the meeting now will carry on as stated in the adjournment and I will carry on now.

HON CHIEF MINISTER:

Mr Speaker, can I just for the record say that in fact we are quite happy to follow that advice and that ruling, but in any case, if the argument of the Opposition is that we cannot do it technically because we have now come to the First and Second Reading of the fourth Bill on the Order Paper, then we are prepared to come back this Friday and continue with the Committee Stage and then we will adjourn.

MR SPEAKER:

As far as I am concerned, the agenda of the meeting is decided by the Leader of the House, and I cannot tell the

Leader of the House what to do or what not to do, but as far as I am concerned, my ruling is that the agenda has not been completed, that this is a sitting and that we meet again unless the Leader of the House is going to change his mind, in which case he will have to, according to the rules, suspend the Standing Orders and change the date that is already here. Otherwise, I will carry on now.

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 Blackburn Gittings
The Hon E G Montado

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The adjournment of the House to Friday 30th April, 1993, at 10.30 am was taken at 1.10 pm on Tuesday 16th March 1993.

FRIDAY THE 30TH APRIL, 1993

The House resumed at 10.40 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 Tourism
The Hon J L Baldachino - Minister for Housing
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 Blackburn Gittings - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon P R Caruana - Leader of the Opposition
The Hon Lt-Col E M Britto OBE, ED
The Hon F Vasquez
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge

ABSENT:

The Hon M A Feetham (Away from Gibraltar)

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

ADMINISTRATION OF OATH OF ALLEGIANCE

Mr Speaker administered the Oath of Allegiance to the Hon Brian Traynor, Financial and Development Secretary, and welcomed him to the House.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER

I have a couple of comments to make. Hon Members must have noticed with satisfaction that after many years of paralysis the clocks on the west and east side of the House of Assembly are once again keeping time. The House surely wants me to record appreciation and thanks to Mr Tony Aguilera, City Electrical Engineer, who readily

voluntered to see them repaired when so requested and to Mr Maurice Barea who painstakingly made use of his technical skills to make them work again. I feel sure hon Members will agree that they have endeavoured to add a vital finishing touch to the repairs and overall painting recently carried out to this historical building that has made it look worthy of housing the parliament of the people of Gibraltar. The other comment I wish to make is in connection with the adjournment of the House last time. The agenda for the last sitting of the current meeting was short of the Committee Stage and Third Reading of the four Bills. It mystified me at the time, as did hon Members and the Clerk himself. On investigating the omission I discovered that the intention of the Government was to include Committee Stage and Third Reading of the four Bills in question in the current meeting. However, inadvertently these items were omitted from the agenda. On his return from his attachment to the House of Commons, the Clerk did not notice that the agenda did not include the Committee Stage and Third Reading of the four Bills. The Opposition also seemed to have overlooked the omission when they agreed on four occasions at the last sitting that the Committee Stage and Third Reading should be taken at a later stage of the meeting. Had they noticed the omission before the Chief Minister moved the adjournment, the matter would have been cleared when notice of the Committee Stage and Third Reading was first given. Because I was sure that the intention of the Government had been to take the Committee Stage and Third Reading of the Bills in the current meeting, because of the fact that the Opposition had supported, with their agreement, on four occasions that they be so taken and because, in any case, the omission was not of material importance to the meeting itself, but a mere clerical error or technicality, I rule that the meeting should continue as originally intended. With hindsight I am now absolutely certain that I made the right ruling. Furthermore, my ruling in no way alters the practice that the meeting ends when the agenda of the meeting is completed and the Chief Minister adjourns the House sine die.

HON P R CARUANA

Would you allow me, on a point of order, to make one or two comments in relation to Mr Speaker's ruling? During the course of the ruling to which Mr Speaker's statement relates, Mr Speaker said that what the Opposition had before it was not the official agenda of the House and Mr Speaker said that he had the official agenda of the House in his file. A fact which Mr Speaker later discovered not to be the case. The first point that I would ask Mr Speaker to rule on is that what the Opposition had on 19 March sent to it by the Clerk and indeed sent to the press was the official agenda of the House and that what is published and is delivered to the Opposition is the official agenda of the House and not some truncated version of it to assist the Opposition which was the phrase that Mr Speaker used when he was ruling on the 19th March. I would also be grateful, Mr Speaker, if Mr Speaker could just confirm that the practice of the House has been that - it has been I think since its existence - meetings of the House end when its agenda ends and that the official agenda had indeed ended. Finally, Mr Speaker, as to Mr Speaker's comment a few moments ago that even the Opposition thought that the meeting was not going to end because they agreed for the Committee Stage to

be adjourned to later in the meeting, of course, Mr Speaker, the Opposition did not think the meeting was going to end because we thought, as is the usual practice, that the Chief Minister would adjourn the House before he got to the end of the agenda. But the fact is that he did not and the agenda finished and in accordance with the long standing practices of the House that means that the meeting had finished. That said, Mr Speaker, the Opposition, of course, has no alternative but to accept Mr Speaker's ruling which under Standing Orders is final. But it has to be said Mr Speaker that your ruling of this morning is inconsistent with what you have also ruled this morning, namely that meetings of the House end when the agenda finishes and Mr Speaker has conceded that the agenda finished and therefore logic dictates that notwithstanding what the cause of the problem might have been, that the meeting had ended.

MR SPEAKER

I do not think it is necessary for me to make a long reply to the Leader of the Opposition because I have already stated, in the statement that I made, clearly that the agenda obviously ended as the hon Member says but that was never the intention. It was purely due to a clerical error. It was of no material importance to the meeting itself and therefore I was not going to allow the creation of a storm in a teacup to frustrate what was the will of the Leader of the House.

DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to lay on the table the Draft Estimates of Revenue and Expenditure 1993/94.

Ordered to lie.

BILLS

COMMITTEE STAGE

HON THE ATTORNEY GENERAL

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Banking (Amendment) Bill 1993 and The Social Security (Non-Contributory Benefits and Unemployment Insurance)(Amendment) Bill 1993.

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

THE BANKING (AMENDMENT) BILL, 1993

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

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

THE SOCIAL SECURITY (NON-CONTRIBUTORY BENEFITS AND UNEMPLOYMENT INSURANCE)(AMENDMENT) BILL, 1993

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

Clause 4

HON R MOR

I beg to move an amendment by inserting after the words "foregoing and" the words "where in the opinion of the Government it is".

Clause 4, as amended, was agreed to and stood part of the Bill.

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

THIRD READING

HON ATTORNEY GENERAL

Sir, I have the honour to report that the Banking (Amendment) Bill 1993 and the Social Security (Non-Contributory Benefits and Unemployment Insurance)(Amendment) Bill 1993, with amendment, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

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

ADJOURNMENT

HON CHIEF MINISTER

I have the honour to move that the House do now adjourn to Tuesday 25th May 1993, at 10.30 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Tuesday 25th May 1993 at 10.30 am.

The adjournment of the House to Tuesday 25th May 1993 at 10.30 am was taken at 10.55 am on Friday 30th April 1993.

TUESDAY 25TH MAY, 1993

The House resumed at 10.50 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 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 Blackburn Gittings - Attorney General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon P R Caruana - Leader of the Opposition
The Hon Lt-Col E M Britto OBE, ED
The Hon F Vasquez
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

COMMUNICATIONS FROM THE CHAIR

On the 30th of last month the Leader of the Opposition, the Hon Mr Peter Caruana gave an interview on GBC Newswatch critical of the ruling I reiterated at the sitting of that same day regarding the adjournment of the previous sitting of this House. I got the impression from what was said that certain hon Members in the Opposition may not be fully aware of the tradition followed in this House relevant to the high respect accorded to the authority of the Speaker and ipso facto to the dignity and supremacy of the Gibraltar House of Assembly. As servant and master of this Assembly I would be failing in my duty if I did not acquaint such hon Members with the correct procedure to be followed by any Member who may disagree profoundly with the Speaker's ruling and by my so doing save the hon Member from acting in a possible contempt of the House through ignorance. Standing Order 51 makes it amply clear that the Speaker is responsible for the observance of the Rules and Orders and his decisions shall not be open to appeal and shall not be reviewed by the Assembly except upon a substantive motion made after notice. Furthermore, Standing Order 55 states that in cases of doubt the Order shall be interpreted in the light of the relevant practice of the House of Commons and that in any matter for which our Standing Orders do not provide, the said practice shall be followed. It is possible that one or more hon Members in this House may not be in total agreement with these two Standing Orders, notwithstanding they are grounded on the basic principle of British parliamentary democracy, the powerful authority of the Speaker and the decisive judgement of the majority. If there is any hon Member holding such a view in this House he will find it very frustrating and I hope that rather than resort to ineffective and possibly destructive protest he uses his ability to get the Standing Orders amended to meet his concepts. In Gibraltar the greatest of respect has always been shown to the

Speaker and I have absolutely no doubt that all hon Members want to uphold that but never before, to my knowledge, has a Speaker of the Gibraltar Legislature been criticised on his ruling in or outside this House unwittingly or deliberately and for the sake of good parliamentary democracy in Gibraltar I hope that for the reasons I have explained it will never happen again. Finally, I must reaffirm to the House that I am totally convinced that the ruling in question was fair and correct. I sincerely and honestly believe it to be so simply because it addressed the proceedings of the meeting itself and not as to whether a clerical error should be used for a secondary reasons to suit or otherwise the Opposition or the Government by ending a meeting or not ending it. It would have been utterly wrong and perverse to have made use of a clerical error that had no adverse effect on the conduct or business of the meeting itself with regard to the Opposition or the Government to further a secondary purpose that had nothing to do with the meeting itself. I therefore stand four square by the ruling.

DOCUMENTS LAID

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

- (1) Statements of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (Nos. 8 to 17 of 1992/93).
- (2) Statements of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (Nos. 2 and 3 of 1992/93).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE APPROPRIATION (1993/94) ORDINANCE 1993

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending 31st day of March 1994, 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 and in accordance with the convention I do not propose to make a speech.

MR SPEAKER

I would like to explain that in this situation with the Appropriation Bill the mover is the Financial and Development Secretary and he speaks and then he is followed by the Chief Minister. At the end of the debate again the Chief Minister is entitled to speak and he is followed by the Financial and Development Secretary. At the second speech at the end of the Bill no new matter can be introduced by either speaker.

HON CHIEF MINISTER

Mr Speaker, in moving the Estimates of Expenditure for 1993/94, as I did last year and as I have done in previous years, I will give an overall picture of the state of the economy and of our predictions for the next year. It used to be, in fact, before 1988, part of the job of the Financial and Development Secretary and it is now part of my job. The latest estimate - which is subject only to possible minor adjustments because of the final figures on the movement of petroleum products - for the gross domestic product, for the year ending March 1992, is £303 million. Therefore, it is practically on spot to the figure that we have been working on since 1992, which was a figure of £300 million. The figure for the year ending March 1992, therefore represents for 1991/92, real growth of 6 per cent. Hon Members have had the Employment Survey for October 1991 and the Employment Survey for April 1992 and that is also the most recent information available to the Government. We do not have anything more recent than that. That shows that the economy, in terms of jobs, reached a maximum point in October 1992 and that there was a decline between October 1991 and April 1992.

Actual statistical evidence takes a very long time to compile for reasons that I have explained in my contribution last year and which, to some extent, is getting more difficult as the economy is more dependent on the private sector and less dependent on the public sector. For example, we are still chasing people up to return the social insurance records for December 1992. So therefore, we do not have a final figure of what was the insured population at the end of last year, but we expect that the order of the figure that we are likely to see materialising, when the Statistics Office have finally compiled it, for the year 1992/93, will be a GDP level of £330 million. This will represent real growth of something in excess of 3.5 per cent.

For the year 1993/94, our prediction is real growth of between 2 per cent and 3 per cent. Therefore the Estimates of Revenue of the Government are a reflection of this assumption. If the growth was higher than that, we would expect that to be reflected in improved revenue figures, if the growth was lower than that, we would expect it to be reflected in lower revenue figures. To put it in context, let me say, that the predicted growth for the whole of the European Community is 0.1 per cent; that the United Kingdom, on the assumption that Mr Lamont is correct in saying that the green shoots of recovery have finally emerged, is expecting between 1.25 per cent and 1.5 per cent, i.e. half the growth that we are anticipating. Germany which has been the motto of the European

Community until now, is actually expecting the gross domestic product to decline by 3 per cent. So we are talking about a background where the economy of the European Community, if it is indeed going to be coming out of recession in 1993/94, it is going to be a slow and faltering process.

For us, the two most important markets in terms of trading partners are the United Kingdom and Spain and although the United Kingdom is expected to perform better in 1993/94 than in 1992/93, Spain is expected to perform worse in 1993/94 than in 1992/93. Of course, our ability to develop our economy in terms of our external trade is not just dependent on the prosperity of our customers, but also on our access to our customers and that access is still constrained by the difficulties that we have been facing in the application of Community law in Gibraltar, particularly in the area of financial services. We have been making some progress but very slow since the agreement was reached in London on the basis that the legislation was Gibraltar led and that although we would, as far as we considered it possible without damaging our competitive edge, follow UK practice. At the end of the day we reserve the right to exercise the freedom in the Community provided by the Community framework to do things differently from the United Kingdom, if we felt that the way they did it was something that was likely to have a negative impact on the competitiveness of our financial services sector. Certainly, we feel that the recent debate in the House of Commons on the Maastricht Bill, where a great deal of emphasis has been placed by Her Majesty's Government on the question of subsidiarity, applies to us as much as it applies to them. Therefore, if it is logically valid to argue that subsidiarity means that what could be done in London should not be done in Brussels, in our view it follows logically that what could be done in Gibraltar should not be done in London. By the same inescapable logic that they defend the right to do their own things, we defend the right to do our own thing.

Nevertheless we welcome the support of the advice of the United Kingdom in this area and we are expecting to be setting up an EEC legislation unit, within a few weeks, which will be funded by the United Kingdom and which will be staffed by the UK with expertise on a temporary basis to help us deal with the backlog that there is in terms of legal drafting. We hope that we will be able to make major inroads into this backlog during the course of the summer and to be in a position, after the summer recess, to have cleared a substantial proportion of it.

There has been I think very good progress recently in the two visits that we have had with experts from the social security side and from the Department of Employment on the labour side, which have looked at a number of areas, including the questions dealing with the application of Article 41 of the 1976 EEC Morocco Cooperation Agreement, about which I will have more to say later on.

The House will see that in the Estimates of Expenditure, as we anticipated a year ago, we have now seen a reduction in the Improvement and Development Fund, which this year will be down to below £20 million. In fact, it would have been lower than that but for the fact that some of the expenditure we anticipated taking

place before March, has not actually come through until after March. I think I need to point out to Opposition Members, who may not be all that familiar with the vagaries of the Improvement and Development Fund, that one of the things about it, is of course, that expenditure tends to come into the Estimates when it is billed rather than when it is actually being constructed. As it is primarily construction projects, it actually means, that if the bills arrive in the Treasury after the 1 April, the expenditure may be showing in the current financial year but it may actually already have happened. This is why we are still showing expenditure here on the New Harbours Industrial Park and on the housing project where if anybody goes there, they will see that the thing is practically finished.

The fact that we are spending less will have its repercussions of course in the volume of employment in the construction industry in the private sector. As I have already mentioned, the Employment Surveys that hon Members have already got show that between April 1991 and April 1992, the total number of jobs in the economy of Gibraltar was 14,700, but, in fact, during that twelve month period the jobs increased by 300 in the first six months April to September and then declined by 300 in the second six months September to April. In fact, in April 1992, it was the same as in April 1991, but within the year it went up by 319 and down by 300. Therefore 1991/92 was the best year in terms of employment levels. We expect that the figure for April 1993, when it is eventually published in about a year's time, will show that there has been a decline of possibly another 500 jobs in the private sector bringing the total down to something like 14,200. Within the figure of employment, the construction sector is expected to go back to the level it was at up to 1989/90, as I have already mentioned in my statement last year. To put a figure on this, what we are talking about is the construction industry, which peaked in October 1991 at over 2,500 jobs, will eventually be providing 800 jobs which is what it provided until 1989/90. How quickly that happens is not possible to predict with any degree of accuracy but we are certainly on the way there. Throughout the period when the level of employment in the construction industry has fluctuated very substantially, we have seen the level of unemployment amongst Gibraltarians virtually static. This is a reflection of what I said in my speech at the Budget last year, that, in fact, the growth from 800 to 2,500 in the construction industry had virtually produced not one single job for Gibraltarians, it was growth by importing labour and the bulk of that labour is leaving as the construction industry runs down. The one who is not leaving is the Moroccan construction worker. In October 1991, we had nearly 600 Gibraltarians out of work and 2,500 jobs in the construction industry. Today we probably have 600 Gibraltarians out of work and 1,800 jobs in the construction industry. So the fact that we have lost 700 jobs in the construction industry has not increased Gibraltarian unemployment. There is still scope for the Gibraltarians to take a greater proportion of the 800 jobs that will eventually remain as the basic size of our construction sector which was the size it was in 1986, 1987, 1988 and 1989. There is no reason why much of that work could not be done by local tradesmen who in the past have tended to look to the Government or the PSA for work. But, of course, in order to be able to do that we have to persuade private employers to take on Gibraltarian

workers. I am hopeful that the proposed employment forum put forward by the TGWU, which the Government welcome and support and which we have asked the Chamber of Commerce to join, will help both the Union and the Government to persuade the private sector to employ more Gibraltarians. Certainly, if the proportion of Gibraltarians being employed in the last six months had been higher than it was, the unemployment would no longer exist. It is as simple as that. There is no evidence in the statistics available to us that people have not been able to get work in the private sector because there were no jobs in the private sector. The evidence is that they have not been able to get work in the private sector because employers did not want to employ them or because they did not want to work for the employers, one of the two. We are not very sure who, at the end of the day, is the one that is most reluctant to work for who. We need to get to grips with it because certainly in analysing the strategy, the fact that we are able to generate levels of employment and levels of economic growth, even in today's climate, is not going to do us any good, if all that we do is, is we spend a lot of time and effort and money persuading investors to come to Gibraltar to create new activities, to create new jobs and then all those new jobs go to outsiders. It is still important for the economy but it is not important for the most important thing in the economy which is to have our people working. Therefore, we are fully committed to priority of employment to Gibraltarians. We said so in the election campaign in 1992 and ever since we have made clear that as far as we are concerned, our objective is to bring down the unemployment level of the 600. If we are able to generate sufficient jobs over and above what is required to provide work for our people and to be able to provide work for the Moroccans, well and good. At the moment, the prospects do not look too encouraging given the fact that such a high proportion of them; 80 per cent are ex-construction workers. That is where there are going to be less jobs. The emphasis on employment, as the main preoccupation of the Government, is not peculiar to Gibraltar. It is the problem that it is exercising the mind of every Government in the European Community. This year, the level of unemployment in the EEC has gone over 17 million. There has just been a group set up under Mr Delours and the Delours Committee is now looking at coming up with new initiatives at a Community-wide level to deal with unemployment. We obviously will be forming part of the application of any such initiative in Gibraltar if we find that we can make use of that. As it is, at present the work and training programme being undertaken by the Employment and Training Unit, about which the Minister can provide further information if required by Opposition Members, with ESF support already provide the necessary vehicle to assist the private sector to re-train people and put them into jobs in the private sector which they have not done before. So what we now need to achieve is the involvement and the cooperation of the business community, if they can be persuaded that their skills are capable of being transferred to Gibraltarians in areas where they have not been involved. I think it is important also that the Union will be using its good offices to make people understand that they really have to accept going into these new areas. There is no alternative open to us as a community. We really have to learn to run the private sector with Gibraltarian labour to a higher degree than we have ever done in our history.

As I have said, the level of economic growth in terms of GDP, for the next twelve months of 2 per cent to 3 per cent and the fact that the

Government will be spending less money out of the Improvement and Development Fund - let me say that that figure will be cut further in 1994/95 - means that the 400 Moroccan workers of whom 80 per cent are construction workers, are going to have great difficulty in getting re-employed. In fact, as I have already stated publicly that on present projections, this figure could reach 600 by December this year. In May and June, PSA is making redundant some 60 to 70 Moroccan workers and we have made clear to them that this is a typical example of the kind of problem that we are being landed with as a community, as a result of their decisions in the past. Here we have got a situation where the United Kingdom Government brought these Moroccans to Gibraltar twenty years ago, they have now decided that they do not want to have an organisation such as PSA any more; so they close it down. As far as they are concerned, they give them the £20 to pay their fare back to Morocco and the redundancy pay for their twenty years of service and they wash their hands of the problem. I am afraid that is not acceptable because if we had an expanding market for construction workers - all the 70 people are construction workers, that is what PSA was, the construction arm of the British Government - we would not mind. We would be quite happy to see the 70 workers re-deployed somewhere else but the fact of the matter is that those 70 workers are going to join 400 who are already out of work and compete with those 400 and the Gibraltarians for scarce jobs in the construction industry with the serious disadvantage that a lot of them are people who are now in their fifties. Therefore, they are also competing with frontier workers in their twenties and their thirties. The chances are not good. Frankly, if the United Kingdom Government were to bring expatriate UK workers to PSA from the UK, they would take them back to UK and they do take them back to UK and we insist that they take them back to UK. What they cannot do is simply dump them on our lap and then say, "You have to deal with it and you have to deal with the consequences of any possibility of obligations under the EEC Moroccan Agreement of 1976".

We introduced the policy of allowing unemployed Moroccan workers - we have only applied it to the Moroccans and not to other EEC nationals - to remain in Gibraltar looking for work in excess of six months, in October 1988. I want to say that for the avoidance of any doubt. We had a meeting then with the representative of the Moroccan Government, a Mr Bankirak, and it was as a result of that meeting that he asked the Government to allow them to stay over the six months. He did not ask the Government to allow them to stay one, two, three or four years, which is what they have done, he has asked to allow them to stay more than six months because, at the time after six months if one was still out of work, one was removed from the list of unemployed in the register of the Labour Department and one was then treated as a new entrant. In October 1988, we checked and there were only seven Moroccans affected over the six months period. It did not seem to us an unreasonable thing to say why should we penalise seven people when there were about 80 or 90 under six months and seven over six months.

I announced recently that we were reviewing this rule and having reviewed this rule what we now find is that we have got 400 out of work, of which 80 or 90 are under six months and 320 are over six months. Of the 320 over six months, there is still one who was there in October 1988 when we relaxed the rules. It is by looking at each individual and at each circumstances and trying to be as humane as

possible, that we are reviewing the six months policy. It is not an onslaught of people being repatriated en masse but, nevertheless, it is a responsibility as a Government that we have and we do not shy away from it. We have to tackle the problem, we cannot have a situation where the numbers out of work keep on going up indefinitely every year and the prospects of their re-employment keep on going down and at the same time we are being taken to court with a claim for social assistance, which of course we will resist in court and we are confident of winning, but nevertheless we have to be conscious that it is there.

Given the level of expenditure on capital works for the next 12 months, we have looked at our borrowing requirements, as I said, we would do a year ago. Opposition Members will be happy to learn that we have come to the conclusion that we do not need to increase the £100 million ceiling this year either. But of course we will review it in March 1994 when we do the estimates for 1994/95. The level of outstanding debt at the moment is of the order of £92 million.

Turning now to the recurrent budget from the capital works budget, the deficit for the year ending March 1993, is more or less in line with expectations. I mentioned last year that we were now having difficulties in obtaining more savings from the restructuring of Government services and, therefore, the main savings produced this year have been by cutting back on overtime levels. Having looked at that area in depth in this year's estimates, we established that the levels of overtime in many areas amounted to 75 per cent of basic wages, that is, that people were in practice earning 175 per cent of the basic wage as a result of overtime. We have now limited the overtime levels in this year's estimates to what is required to maintain duty rosters in all the areas where they exist and with an additional provision to deal with emergency work arising out of hours in the whole of the public services. There are things that go wrong on Fridays and things that go wrong after people have gone home and they need to be recalled and we need to tackle those problems. There used to be quite a lot of things that went wrong on Fridays but anyway we have to tackle it and we have no choice and we have put the money to do it. In some areas people feel that if they are not going to be guaranteed the work between Monday and Friday on a regular basis, whether it is essential or not essential, they will not do the work and really we have to accept that there is nothing that can be done to force them because overtime is not compulsory. Just like the Government, as an employer, is not obliged to give people overtime fixed on a regular basis, people cannot be forced to do irregular overtime as and when required. It is a question of persuading those involved that it is better to do the overtime that is available than none at all and that really we are there to give a service to the public and we ought to be able to provide that service and pay for it as and when required but we really cannot justify spending money when it can be avoided and that is a responsibility that we have and we are prepared to take it on. Without that, frankly, we would have been in very serious trouble. The reality of it is that even after a major surgery into the overtime budget, the House can see that the basic running of the Government is still going to produce a deficit this year of the order of £1.5 million. We have got for next year really to be looking at a balance in the budget. We have got £1.25 million pencilled in as a deficit on page 5. We have got £1.25 million left in the Consolidated Fund. To some extent, the figures for the outturn

for this year are better than we had predicted and that has given us some leeway but we do not expect that leeway to be there much longer and therefore, we are really looking to a situation where from 1994/95, we should be seeing either a balanced budget between revenue and expenditure or preferably a slight surplus to start rebuilding the Consolidated Fund to the kind of level we had in 1992.

Within the overall Estimates of Expenditure, as I have said, the scope for extra savings are now becoming more difficult to find and I am glad to be able to report that I am going to be having regular monthly meetings with the Staff Associations and the Union with a view to identifying areas where, with their help, we can look for greater economies and better use of resources to try and keep these targets.

Obviously, the ultimate objective of all this is that we are committed to avoiding having to go down the route that PSA has gone down or that the UK Government has gone down, of making people redundant but we have to find the money to pay them.

Included in the overall expenditure of the Government is, of course, the subsidy to GBC and the subvention to Mount Alvernia. They are also calls on public funds and given the concerns of Opposition Members in these two areas which they have drawn attention to in a number of occasions, when we come to the figures for the subvention in the Committee Stage, I will be giving hon Members a detailed breakdown of exactly what monies are being provided and to what extent there have been increases and why the figures are what they are and not more. Certainly the options for GBC, let me say, are much more limited than for Mount Alvernia.

The Moroccan court case is something that I have already referred to. I have to say, Mr Speaker, that the case is coming up, not only in our courts but also that a complaint has been taken up with the EEC. We are in close touch with Her Majesty's Government for us to respond to the EEC and we are taking specialist legal advice externally. Expensively as regards the case that we have to defend in the Gibraltar courts. Provision for this is in the Estimates. We have not made any provision for any potential contingent liability should we not be successful in defending the case because in fact, in our view, we are going to be successful and secondly, if we are not successful, there is no way we can produce the money to meet any liability which essentially deals with eligibility for extra-statutory social assistance. The Leader of the Opposition referred last year to the fact that social assistance is extra-statutory. Let me say that precisely because social assistance is extra-statutory, we believe we can defend the view that it is not covered by EEC regulations on social security. Obviously, the details of that is something that I am having looked at by experts from the United Kingdom Social Security Department and experts on Community law. There have been a number of challenges in this area in other parts of the Community, some of which have been lost. In all the cases it appears to us that the system was not as clearly discretionary as ours is and that is one of the key elements. We do not, of course, make the payments that are being claimed to EEC nationals either, let us be clear. So it is not that the case being put is one where we are denying it to Moroccan nationals and giving it to Community nationals; we are not giving it to anybody. If the Moroccan court

case were successful, they will be successful not only in demonstrating their entitlement to it but also demonstrating their entitlement of the 17 million unemployed EEC nationals who can turn up here and claim it. I regret that it has got to the stage of having to demonstrate the legitimacy or otherwise of the claims in court but I do not think that there is any going back now. I made clear in the Official Opening of the House in 1992, that Gibraltar was not in a position to meet such a liability. I have made it absolutely clear to them on countless meetings and I have said to them, "Even if you have an argument and you were proved right, at the end of the day, if you present the Government with a case that says we need to make payments which increase the money we are spending now from say £1 million to £3 million, since I cannot produce the additional £2 million, the only way I could remove the different treatment would be to remove the £1 million, so it is impossible for you. The most that you could achieve would be that we would have to start paying other people, not that we would be able to start paying you, because if we start paying you we would need to have money that we do not have." Obviously, the message has not gone through. They are entitled to seek a ruling from the court; it is their right; we do not deny them that right. We think that it is regrettable we should have gone down that route, but it is their right. Therefore, the matter will be pursued in court. What we are not prepared to do is, at the same time as we are being sued, have negotiations going on which could, in our view, prejudice the arguments that will have to put in front of the court to demonstrate that we are acting within Community law. We have also made absolutely clear to the United Kingdom Government that the 1976 Trade and Cooperation Agreement between Morocco and the EEC was something that was not brought to the notice of the Government of Gibraltar before it was entered into. It is an established practice since the 1969 Constitution that the application of international treaties to Gibraltar is made subject to the Government of Gibraltar saying it wishes to be included. Not just the Government of Gibraltar, let me say, every other dependent territory is treated in the same way. The United Kingdom Government, as a matter of course, everytime it is going to enter into an international obligation asks us whether we want to be included or we want to be left out. It is right that we should be asked because if there is a bill to be paid at the end of it, we should not just be presented with a bill without being asked whether we want to be included. There is no record of the Government of Gibraltar having been asked before 1976 and there is very little record of them being told that they were in it after 1976. Therefore, quite apart from everything else, even if it could be demonstrated that as a result of that agreement certain obligations were acquired in 1976, which have not been claimed until 1990 and which presumably have been there for the intervening 14 years. But if it cannot be demonstrated on this occasion, I think, that quite apart from the element about the fact that the Constitution says that labour from abroad remains a non-defined domestic matter and the responsibility of the United Kingdom Government - that element in the Constitution like all the rest of it has never been changed - this is an area of Community obligation. It is the UK that insists that they are responsible for the application of Community law in Gibraltar in financial services and everywhere else so they cannot be the party that has to decide the application of Community law in Gibraltar in financial services but not the party when it comes to footing the bill for the EEC Moroccan Cooperation Agreement. In all those areas, it seems to us we have got more than a solid, moral and legal case for

saying that this is not something that falls to the people or the Government or the budget of Gibraltar. Therefore, we feel confident that we do not really need to be worrying about the kind of hole that that would make in these estimates and in our resources because that situation will not materialise.

The distribution of expenditure shows some of the changes we have been indicating during the course of the year, Mr Speaker, and that will be reflected in a new distribution of ministerial responsibilities which will be gazetted next week. I wanted to inform the House this week before we put it to the Governor next week for gazetting. It will mean, in fact, really formalising what Opposition Members are by and large already aware of. That is to say, in the first instance, the labour section is no longer with the Social Security Department and, therefore, the new ministerial responsibility of the Minister of Education will be Employment, Education and Youth Affairs. We are dropping 'Culture', not because he is not going to be responsible for culture, but because we thought the title was long enough without keeping 'Culture' as well.

The Minister for Labour will therefore be responsible for social services and we will be reviewing the position after December in the light of what happens with the Pension Fund and what further rationalisation takes place in that area.

In the Estimates what we have done is we have placed the unit responsible for making the payments and collecting the social insurance contributions within the Accountant General's Department. Fundamentally, the job that they do is that they collect money and they pay money. Therefore, it was a logical thing to integrate them there; they are the same people doing the same job. It is quite clear from the discussions that we have with the United Kingdom, that in the UK view, any new scheme taking over in January will have to be done outside the public sector if it is not going to be covered by the definitions in EEC regulations on social security and on the transferability and eligibility of nationals of other Member States to claims against our social security. We cannot just end one state social security system in December and start a new one in January which looks exactly the same except that it has a different name. In London's view that would not meet the bill. The area of social services therefore will be subjected to further review after December but, in the interim, since some of the work has been removed, the Minister responsible will also be assuming responsibility for the Prison.

The housing allocation element, which is currently under the Social Services, is intended to be moved to the Department of the Environment in September or October this year. Therefore, the new department will be the Department of the Environment and Tourism. It is responsible for some of the things that were previously part of the Department of Trade and Industry. It has the Environmental Health Department and it has the whole question of allocation of land and allocation of housing but that process is not yet complete and we expect to be completing it during the course of this summer.

Support Services, for which my colleague, the Hon Mr Perez has responsibility, is now responsible for some areas which were also previously shown under the Department of Trade and Industry. One of

the changes that hon Members will see in the Estimates is that in some of these departments there has been what appears to be substantial increase in expenditure. Perhaps I ought to explain now so that they do not get the wrong end of the stick that this is because we have removed inter-departmental charges. One of the things that used to happen was that although we were voting £x for example, for the maintenance of vehicles in the garage, that was only the residue of the money that was spent by the garage after the garage billed each department for the cost of maintaining its vehicles. Quite apart from the fact that that internal billing itself costs money and, at the end of the day, it served no apparent useful purposes it just made the process more cumbersome and more costly, it also meant that in the Government, never mind in the House, we had some difficulty in finding out exactly what one particular facility was costing. So now we know that the operation of the garage and workshop costs £x 00,000's a year and that is there to service the vehicle fleet of the Government, irrespective of who is using the vehicle. Before it meant that when the final figures were being done for the forecast outturn of the year, we found unexpected calls on supplementary funding because of large bills coming in from some department to another department. It is obvious, logically, that if people can send the bill to somebody else, they tend to be less sensitive about the size of the bill than if they have to defend it themselves. So we think that this will improve our control of expenditure at a departmental level. I can tell the House that the fact that it is going up in one area is being compensated for by a reduction in another area otherwise it would have meant that the total expenditure of the Government would have been very substantially increased this year and that has not happened.

The Department of Trade and Industry will remain basically the same with the main emphasis of its work being in the external promotion of Gibraltar and in bringing new activities to Gibraltar and new investors.

The Minister for Housing will have his job re-titled Minister for Building and Works, so that people can stop queuing up outside his door asking for a house and his main responsibility, which is already what he is doing, is the construction of new buildings in the Improvement and Development Fund, which is under the controlling officer of the Housing Manager and the maintenance, repair and refurbishment of the housing stock of the Government which is about 5,000 houses.

There is no change for the present in the responsibility for the Minister for Medical Services and Sport. The matter will be reviewed in the light of the changes that take place in the social security and social services area at the end of the year, so that if there is a reduction in the work load of somebody, we will redistribute the work at the end of the day so that everybody is more or less equally loaded. Another minor change is going to be that the Savings Bank, which is currently shown as being the responsibility for the Minister of Government Services in relation to the Post Office and Telecommunications, will be in these changes gazetted as coming under my responsibility. In practice, they already operate the Savings Bank by reporting to me rather than to him so that is simply reflecting what has been taking place and we are taking the opportunity to actually reflect it in the distribution of

responsibilities.

The other thing we need to tell the House that is going to happen is that, in looking at the way this has been done before and all that we have done since 1988 was repeat what was happening before 1988, we have come to the conclusion that there is little logic in the way that some departmental responsibilities are listed as compared to others. For example, hon Members will see from the Gazette of 1992, that the Minister for Medical Services is shown as being responsible for exterminating rats and mice. The new responsibility of the Minister for the Environment will not be exterminating rats and mice. He may be exterminating some other creatures, but certainly not rats and mice. Hon Members will see that there we have baths, wash-houses and vaccinations. This really goes back, I think, to the old City Council days and it is almost like a job description of a sanitary inspector. For some reason, this particular area has always been done like that. There is a major contrast, for example, it talks about responsibility for animals and birds, for noise abatement etc. It seems to us that in terms of ministerial responsibility, one needs to identify the departmental responsibility and the legislation for which a Minister is responsible, but really, it is the Public Health Department and the Environmental Health Officer that actually is responsible for exterminating rats and mice and not the Minister. Therefore, the new definition of responsibilities will be much more concise than what was there in 1992, but it does not mean these responsibilities are being lost, it is just that we do not really think there is a need to spell them out.

In summary, Mr Speaker, in relation to the state of our economy and the public finances of Gibraltar for 1993/94, we are talking about growth of national income in line with the expectations of 2 per cent to 3 per cent for 1993/94. We have said that the emphasis over the next twelve months will be on bringing down the unemployment amongst Gibraltarians from the 600 level rather than on the global figure of maintaining 14,000 jobs on the economy. It is more important that we have the Gibraltarians working, whether we have 14,000 jobs or 13,900 jobs, than to stick to that because it is clear that maintaining global employment opportunities and leaving it to market forces, is not producing the desired result. The figures for the first six months show that 2/3rds of the jobs have gone to outsiders between January and April this year. In looking at the target, we are still saying we expect to be able to have 14,000 jobs in 1996, but certainly the figure to watch for 1993/94 will be the success that we have in bringing down the figure of local unemployed, which as I mentioned in my speech in my New Year message, we do not expect any dramatic increases from that figure in spite of the reductions in the PSA and so forth. There is no reason why we should not be able to bring it down if we make use of the opportunities that exist and we are doing it with the involvement of the Union and of private sector employers, but that still needs to be tested. We have had a list of proposals, some of them, we suspect may run foul of Community law. We have asked the UK to give us a view on this. Some we may find are not acceptable to employers in the private sector. We will not know this until we sit down and talk to them. In terms of the Government's own activity, it is quite obvious that the drive for efficiency and for improved utilisation of resources and for balancing income and expenditure, is still one that requires a major effort on our part and again, that is an area where it is becoming increasingly difficult to achieve

dramatic results, but we cannot give up because otherwise we will be in serious trouble in meeting our commitments in a number of areas. I commend the Bill to the House.

MR SPEAKER:

Before I put the question does any hon Member wish to speak on the general principles and merits of the Bill? Before I call the Leader of the Opposition I would just like to point out that it is very important that hon Members exhaust the principles at this stage because then when we go into Committee Stage, it is very tempting to go back to principles and that is not permitted. What you then have to discuss, and again you can talk as many times as you like then, is the particular item that you have chosen to refer to.

HON P CARUANA:

Mr Speaker, in presenting formally the Bill to the House, the Financial and Development Secretary said that it was in accordance with convention. It would have been more accurate for him to say "in accordance with recent practice". It takes a little bit more than four years to establish convention in parliamentary terms but still his remark gives me the opportunity to say that the Financial and Development Secretary now says nothing in relation to the principal area of the business of Government for which he has responsibility. Nothing at all! I recall his predecessor at least last year introduced the Bill with some form of numerical comments. It really does raise the question of whether the Financial and Development Secretary considers it necessary to occupy his time by being in this House at all. In that connection we all support the process of internal decolonisation to the extent that functions of elected Governments around the world are transferred to our elected Government, the only difference that we have with the Government Members is that we would like to see that process accompanied by a parallel process of erecting alternative structures, not just dismantling the albeit unsatisfactory ones that exist. If the Financial and Development Secretary concluded that really there is little point for him being in the House, I would have absolutely no difficulty offering my undertaking to the Chief Minister that if the Government's majority ever depended on the absence from the House of the Financial and Development Secretary then we would withhold the exercise of one of our votes to ensure that the Government did not thereby lose their majority. In the general election campaign, Mr Speaker, the Government will remember that I used the phrase 'optical illusion' in relation to the building boom and the impression of economic health that was given by the very busy sight of building works going on in Gibraltar. The Government ridiculed that by suggesting that I could not see

the buildings going on there. Of course I did not mean that the buildings were not there, as hon Members know now and knew then. What I meant was that the strategy of building infrastructure, both funded by Government and encouraged by the Government to be carried out by private sources, was all very well and provided real and genuine economic activity only for so long as it lasted. It was not to be confused with sustainable economic activity. We all knew, whilst the building boom was going on, that the building boom could not comprise sustainable economic activity because obviously we cannot carry on building properties in Gibraltar from week to week, month to month and year to year. So the Government strategy, it seemed to us at the time, was not unlike the philosophy of the speculative property developer. The speculative property developer builds property or encourages others to build properties. The Government's own investment in infrastructural development is not the end of the story. In came large amounts of private capital to build products for which there was not then a market but then say that in the next four years we will make it our business to find those markets and to find those occupiers. That is precisely what the speculative property developer does. We are now a year and a half into the marketing period and I think it is legitimate for the House to review the progress that the Government have made in relation to this matter at a time when it was the policy of this party that there was already a supply of the very things that they were building which is not to say that they should not build more. There was a supply which would have benefitted from marketing long before the Government chose to start it. As we stand here about to review the state of the economy we, the Opposition, ask ourselves what information and what mechanisms exist to enable the state of the economy to be assessed.

The Estimates are not now, and in fairness to the Government, never were, a statement of the state of the economy. They were a statement of the Government's finances both in relation to the forecast outturn of the period ending and what the Government estimated its revenue and expenditure would be. The state of the Government's finances does not necessarily coincide with the state of the economy although, and this is where the estimates were useful in trying to assess the state of the economy, there was information contained in the Estimates of Revenue and Expenditure of the Government which amounted to indicators from which one could reasonably gauge or guesstimate what the underlying state of the economy that was estimated to produce those figures was. For example, how much the Government proposed to collect on income tax and on taxation of the various kinds. How much the Government estimated they would collect on import duties, etc, etc. All these were indicators of the Government's confidence in the state of the economy because it was the extent to which the underlying state of the economy was reflected in the

Government's own statement of their own prospective financial position. It is not my intention to take the House in any great detail through the subject matter of my motion. Suffice it to say that one of the deficiencies as we see it of the presentation of statistics, which reflect the way the Government has now chosen to organise their financial affairs, is precisely that the Estimates of Revenue and Expenditure of the Government are deprived of that characteristic which they previously had of throwing up indicators of what the state of the economy was. The Estimates no longer tell us how much the Government estimates that they will collect in import duty, in company tax and in exempt status tax and in all the other bits and pieces that are now not there, such as the collection of the revenue of the Electricity Fund, stamp duties and the training levy. The Government now know what they comprise of. At 1991 levels they were worth about £36 million but, of course, we have no way of knowing exactly what they are going to be worth in the next year. I accept that the figures that I am about to quote, by necessity, have to be a guesstimates. The items of revenue and expenditure therefore of which information is no longer given in the Estimates to this House I suspect is of the order of 35 per cent to 40 per cent of the public revenues collected from the taxpayer of Gibraltar. That is 35 per cent to 40 per cent, subject to the Chief Minister wishing to correct that percentage, of the picture of the state of the Government's finances that we now do not have before us. So, in looking at the Estimates one no longer knows whether the Government is financially healthy or unhealthy. One can only gauge whether the 60 per cent or the 65 per cent of the picture that one has in front is healthy or unhealthy. For example, we know from these Estimates that the Government anticipate a Consolidated Fund deficit of about £1.25 million. But what is the overall position of the Government? In other words, the revenue and the expenditure that are in the Estimates are estimated to produce that result but as we do not have the whole picture in front of us, we cannot know whether, when one adds the revenue that is missing and the expenditure that is missing, there is still a deficit or a bigger deficit or a smaller deficit or whether there is a surplus which perhaps the Chief Minister is tucking away in the rainy day fund that he has not mentioned this year. The Government will remember that we abstained last year on the vote on the Appropriation Bill precisely because, whilst we were being asked to appropriate something over £50 million, we did not know out of the whole of the Government's position where that left the Government in terms of its financial disposition and we propose to do the same thing again. How much will the Government spend again this year on the Social Assistance Fund, community care, the health services and things of that kind? How much will the Government spend on the purchase of electricity? I can accept the arguments of the Chief Minister that there is a

need to erect situations that will be helpful for litigation in the results of which we all have a common interest. He has I know this argument that if he diverts revenue to a special fund that they therefore have somehow ceased to be the revenues of the Government of Gibraltar. I sincerely hope that the case that he is preparing on behalf of Gibraltar does not rely to any great extent on that proposition because I think that proposition by itself is unlikely to meet success. I said at the time of the Estimates that if import duty and company taxation were not public revenue then what were they and the fact that we park them in one fund or another does not deprive them of their characteristics. Even if we have got to prepare for this case, there would seem to be nothing to preclude the Government from presenting to the House the estimates of revenue even if the Chief Minister argues that it is not constitutionally required to present to the House the estimates of revenue from such item as import duty which he now pays into the Social Assistance Fund and from there to be deployed in favour of the various purposes to which the Chief Minister has referred. These purposes include not just community care trust but also the health services subventions and other items. Even if the exigencies of the court case required the Chief Minister to do it the way he is doing it why does he have to do it with company tax in relation to the Gibraltar Investment Fund? Why does he have to do it with all the items of revenue that he diverts away from the Consolidated Fund into one fund or other which has nothing to do with the court case for which he is preparing? I do not have in front of me the notes of all the funds but there they all are in Hansard of the Budget debates. Certain revenues are diverted to the General Sinking Fund, others are diverted to the Investment Fund and so on and so forth. The results, without reopening that debate or without restating the case that I put on behalf of the Opposition during that section of the motion, are that once again the Estimates are deprived of vital pieces of information in extrapolating from the Estimates the actual financial position of the Government at the bottom line. In that context the House knows that we are of the view that it is really scandalous and, I suspect, without precedence in western parliamentary democracies that such a large chunk of the public finances should be taken out of the mechanisms whatever they might be in the different countries. In our case the appropriation mechanisms and the scrutiny of this House. Of course, eventually we will get to see the figures when the accounts of the special funds are presented. But even the account of the special funds are prepared in much more truncated form and give much less detailed information than the Estimates of Revenue and Expenditure and the Public Accounts of Gibraltar give.

There is one change in the format of the Estimates of Revenue and Expenditure to which the Chief Minister has not

referred and that is that 'Minor Works and Repairs' are no longer dealt with on a head by head departmental basis but they are included under the Improvement and Development Fund: Support Services: Head 104. Initially this deprives us of no information because in any case what we used to have in the estimates of expenditure was only the total sum of £100 but eventually when it came to the forecast outturn the following year and the Public Accounts of Gibraltar we would then have had a head by head breakdown of how those monies had been expended on the 'Minor Works and Repairs'. One of the consequences of the reorganisation of the presentation of that item - I think it is £850,000 estimated for this year under the Improvement and Development Fund for the general 'Minor Capital Works' - is that next year we will not have a breakdown of how that money has been deployed between department and department which is information that we have today. It is regrettable, in the general context of the picture of ever decreasing financial information that I have been trying to photograph in the last year and a half, that the Estimates should be further tinkered with in a way that also reduces the information that is available. How does the Opposition or the public at large gauge, at any given moment, what the state of the economy is given that we cannot gauge the state of the Government's finances at all at this stage and that the Estimates really have deprived us of the few weapons and tools that there were in the Estimates? What is the economy of Gibraltar? We have to recognise that all the Governments of Gibraltar lack the control over those instruments of economic control which governments in larger countries utilise to control the economy, e.g. the Government of Gibraltar has no control over prices and therefore over inflation. They have no control over interest rates and over exchange rates. Those are the three principal mechanisms by which governments in countries manipulate the economy to implement their own preferred policies and as we have none of those available to us because all of those are to one extent or another imported from one source or another, what we have really is an economy which is really more comparable with a medium-sized company operating within the economy rather than the economy itself. What we have is a Government that have to earn enough money to pay for the public services that the Gibraltarians expect them to offer them collectively, hopefully save a little bit to fund some capital investment for our future and then do what they can in the market place to create the climate whereby people can find gainful employment. Therefore, Mr Speaker, what is the state of the economy now given what we cannot see on the basis of what I have already said? We have now no broken down statistics of imports and exports and the Government do not tell us what they expect to earn in import duty which would have been a measure. The extent to which an economy imports or exports is a measure of the economic activity that the economy sustain at any given time. We have no

regular broken down employment statistics. Eventually we get the Employment Surveys but really they are no more than of historical interest. The Opposition ask questions whenever we get Question Times, at the moment it is looking like about twice a year, in our own way and the Government provides us with the information then. We do not even have that very rough yardstick of how an economy is prospering or the number of vacancies available because for a number of reasons, which it is not necessary for me to do into at this stage, vacancies are not displayed publicly at the Employment Office.

We have neither regular GDP statistics. The Chief Minister, once a year and otherwise from one occasion to another when it suits him, produces the GDP prognostication for the future. One does not know the exact formula by which that GDP projection is calculated. Obviously, one knows what the formulas are that they use in other countries but it would be interesting, in the context of Gibraltar, to have the exact formula and exactly what statistics are used and when and how and by whom this calculation is made. It would be helpful if those statistics would be published on a more regular basis than they hitherto are. We do not get told either how much the Government propose to collect in company tax. Not a very good measure of the underlying economic activity because there is a lag between the current state of the economy and what the Government expects to collect in any one year from company tax because companies pay their tax this year in respect of income of previous years. I am trying to highlight the extent to which the presentation of the Estimates of Revenue and Expenditure is deficient to give us the sort of information that would be helpful that the other mechanisms that exist in other countries to help outsiders who do not have access to the information that the Government has access to, would use to gauge the economy and therefore to gauge the extent to which criticisms of the Government for their handling of the economy is justified or unjustified. In other words, to gauge the real performance of the Government's management of the economy. Therefore, Mr Speaker, as the Government to that extent manipulate the information that is available one can only assume that they do so in an attempt to place a lip over that process of gaugeability and accessibility which really deprives not just their political opponents but anybody else that may wish, to gauge the state of the economy. It really deprives them of the means by which to do that with any scientific accuracy and exposes those that comment on the basis of information that they have not got to ridicule that they do not know this or they do not know that. Of course, we do not know this and we do not know that because we have no means of discovering it. That said, Mr Speaker, we are left with little option but to gauge the state of the economy from where we can see it which is in the street, in the

businesses; what we can see - the visible, observable, indecis of economic activity.

Going very quickly, Mr Speaker, through what we have been emphasising over these last eighteen months; the economic activity which ultimately must sustain the economy. Starting with tourism, we have been highly critical of the Government's tourist performance. I do not call it policy because of course one of our criticisms is that they have had no tourist policy. It has taken them five and a half years to come up with a current weekend campaign in Spain. They have had no policy, no strategy, no commitment to ensuring that Gibraltar keeps the genuine tourist trade which I distinguish from the day visitor, as one of the pillars of sustainable economic activity. One only has to look around at the hotel occupancy rates and at hotel closures. The Government will say recession and the Government will say that we were knocked sideways by the Gulf War and we had not quite recovered and then recession hit hard. There are other small territories within Europe that have suffered the same impact and which are prospering in terms of their touristic product. Consider Cyprus, consider Malta, representations of which countries we shall have an opportunity to talk to when we have the Commonwealth Parliamentary Association Conference in Gibraltar in a fortnight's time. There was a documentary on television the other day where it was revealed that Cyprus, which was operating in the same financial climate as Gibraltar in terms of global recession and in terms of the downturn in travel, were having to ask expatriate Cypriots living in London to come back home because there was a shortage of labour. The tourist economy in Cyprus has boomed whilst this Government has allowed the tourist industry in Gibraltar through, I think, disinterest; I do not even put it down to personal inadequacy, on the part of the Minister who has had responsibility for it. I think it has been a policy decision on the part of the Government over the last five years to deprioritise tourism as a long term economic activity in Gibraltar. We have been saying and we say it today, that has been one of the great mistakes that the Government have made. They have failed to appreciate the significance of the tourist industry in all its facets as a contributor to the local economy, to the creation of new businesses in Gibraltar, therefore to the creation of job opportunities for Gibraltarians and there has been woefully inadequate capital investment. Just 10 per cent taken off the top of the cost of New Harbours invested in tourist infrastructure, in an adequate and professionally administered marketing plan of the sort that other European small territories have in place, and I think we would now be looking at an area of economic activity which would be far more helpful and healthful to the general economy and to the predicament of the unemployed. Certainly, I can say that we would certainly in Government have given tourism that

priority and I urge the Government now, even at this late stage. I know I will be criticised later for saying "How can you accuse us of borrowing too much and then urge us to spend more". I think that if the Government does not, once and for all, decide what its priorities are on tourism we shall be left with a tourist industry of which there is no vestige.

The finance centre, Mr Speaker, is the next area of general economic activity which we look at and which we gauge. There has been no progress on the establishment of the products upon which the finance centre impetus was going to be based. I do not say this churlishly without recognising the political problems that the Government have encountered in this regard. The fact remains that that is the position and they are answerable for the failure to achieve the policies that were laid down whatever the reasons were and to simply state what the reasons are, is not an adequate discharge of their responsibilities. They must find a way of getting the finance centre, the products they so desperately need because otherwise the financial centre will seize-up. There have been other problems. The incidence of the new Spanish tax on property owned by foreign companies has had a major impact on the volumes of business that the finance centre has handled. I do not, of course, stand here to suggest that the Government have any responsibility for that but I do blame them for what I regard as the second of their major failures over the last five years which has had a grave impact on the prospects of the finance centre and may continue to have it even when the political problems of the UCITS regulations and all the problems we have now with the UK Government which may continue to impact on the prospects for the finance centre even when those other problems have been lifted. In my opinion the Government have failed to recognise and protect what is ultimately the biggest asset of the future finance centre of Gibraltar which is not New Harbours and which is not Europort and which is not any office building. The biggest asset that we have for the prosperity of any finance centre based economy is our image; our international image. I do not mean our image in Spain because, of course, we all know that whatever we do and however well we behave, in Spain they are always going to have an image of us that they will conjure for themselves. Our international image is our major asset and yet has been disastrously compromised by the Government of the day in Gibraltar. The Government have to decide once and for all whether they want Gibraltar in the future to be a reputable finance centre or whether they want Gibraltar to be a smugglers' cove because it cannot be both. If the Government do not invest their will in eradicating once and for all the fast launch activity from Gibraltar, which may be leaving much needed short term revenue, but which in the long term is causing fatal damage to the very policy upon which they build their future for the economy of

Gibraltar, namely the finance centre, then I think that history will show that they will have sown the seeds of the destruction of their own policy strategy.

Talking about image failures, the saga of the Gibraltar Components Factory and its apparent financial failure; we have argued long and hard that the role of a Minister is not compatible with the role of chairman of a company engaged in commercial activity. Now we have a manifestation of one of the reasons why that is so. We have a situation in which the Government indirectly hold a minority interest in a company of which the Minister for Trade and Industry is chairman, who writes to their creditors around town saying that they are unable to meet their debts. I do not know if the Government agree with me or not but in our view that the letter-headed paper of a company, which says that its chairman is the Minister for Trade and Industry, should, in effect, go insolvent and publicly admit that it is unable to pay debts, a company for which he is publicly accountable, creates lasting damage to the image of the Government in their conduct of the public administration. I am not going to go into the nitty-gritty of how and why which I am not interested. I am interested in the image of Gibraltar and what the actions of Government Members create. Another matter which I have raised in this House before is the allegations made also against the Minister for Trade and Industry in the Danish newspaper Boersen which I will not cite again because I have already cited them in the House. But one of the arguments that was used by those that appeared reluctant to do anything about it was that here was a Danish newspaper that was not in particularly global circulation and that the damage was localised to Denmark and that Denmark was already a lost cause, etc., etc. A supplement appeared in the Financial Times and I take note of who this article is written by and what his historical track record is in expressing views on Gibraltar but nevertheless, that is not relevant for the purposes of the point I am making, for the purposes of the point I am making suffice it that it has been said. What the Financial Times says, referring to the Fraud Squad investigations in Gibraltar, is that the investigations in this case involve allegations of political bribes and scams that lead from Gibraltar to Liechtenstein. Given that we are talking about a project that was built in Gibraltar, readers of this article will logically conclude that the political scams and bribes to which the writer of this article refers, are political bribes and scams in Gibraltar and not in Denmark since there is certainly no need for political scams and bribes in Denmark to build a building in Gibraltar. We are not concerned with whether these allegations are justified or not or whether they are true or not for the purpose of the point that I am making. I told the Government Members, at the time that the allegations appeared in the Boersen article, that the image of Gibraltar and indeed the

credibility of the Hon. Minister for Trade and Industry who globetrotts on our behalf marketing our finance centre, require that he takes the sort of action that people would expect him to take in the face of these allegations. But for reasons which the Government stated, that we do not accept, they took the view that that was not the best way to proceed. They do not have to go to Denmark to take action against the Financial Times. It is no longer now being said in Denmark, it is being said in the Financial Times as well in less explicit terms, admittedly, but there is this brush which has been used to paint an image and by the time people have finished reading Boersen, the Financial Times and certain other publications that they get, the image with which they will be left is precisely the image that some of those articles may indeed be intended to create. I urge the Government to take the view, if they share my view that the international image of Gibraltar is important for the realisation of their and our aspirations for the future finance centre, that they must change their stance on that and they must deal firmly and resolutely with the instances of this blackening of the name of Gibraltar wherever and whenever it occurs. There is a loss of public confidence in and out of Gibraltar in the methodology that the Government uses for the conduct of the affairs of the public administration. That there should be rumours of this, rumours of that and rumours of corruption, I suppose is to be expected in almost every southern European democracy. I do not say that any of this is happening. What I say is that the duties of the Government are to protect the public administration of Gibraltar by having visible systems. If the systems and the mechanisms existed, for example, tender process, greater accountability, less political ministerial hands-on approach to what are administrative affairs, they would prevent those who, with varying degrees of malice, may wish to create this image which I have described. The sense of inside trackism; the sense that to do business in Gibraltar, if it affects the Government, one has to know the right people or be connected to the right group or be part of this clique or that or one has not to alienate nor annoy the Government, or not annoy him or her, ultimately discourages people from coming to Gibraltar because those are not systems that they recognise in their countries of origin. There is a lack of public consultation, there is an arbitrariness in this Government methodology which is not easily identifiable with by many of those people that we are hoping to attract to Gibraltar. One of the latest examples is the privatisation of the Companies Registry, about which I will say more later, but the Chief Minister presumably must accept from me that he cannot harness the fullest possible degree of cooperation from the private sector in the development of the finance centre if he proposes to quarrel with the lawyers, with ATCOM, with the bankers and with anybody who dares to express a view in public which is contrary to his own. That, in my opinion, is not the way to

harness the cooperation and commitment of the private sector. Therefore, Mr Speaker, in relation to the finance centre, I would urge the Government to identify, defend and promote by their actions, the public image of Gibraltar and not by criticising as unpatriotic those who do nothing more than point out the inadequacies of the Government's own methodology. In some cases that might be open to criticism on another plane as I think has been seen in the last month but let us not confuse one issue with the other.

The third area of economic activity which I think has prospered despite the policies of this Government is the whole area of port activities. I think the port of Gibraltar is generating levels of economic activity and, as I have been saying since the first speech I made in this House, offers great potential for the economy of Gibraltar but there has been a lack of Government investment in that as well. The Government should have invested, as had been called upon by the port operators, just some of the money that they had concentrated in this five year period in restructural activity, in port infrastructure, in port facilities generally and in creating a port facility which did not discourage the visit by liners because they are not prepared to discharge their passengers into the sort of facilities that we presently have.

The other visible, indice of economic prospects for Gibraltar are the whole question of unemployment. We have, I think it is now recognised by the Government as well, a problem of rising unemployment and of course, all employment and unemployment statistics by governments all over the world are doctored to create the best possible impression. I would ask myself what the unemployment statistics would be if we included in them, for example, everyone who is engaged in part-time employment who needs, and would like to be engaged in, full-time employment but cannot find full-time employment. Or what the levels of unemployment would be and the prospects for those levels would be if so many of our youth were not engaged in the aforementioned fast launch activity? Or what that level will be when the MOD and the PSA and, indeed, the private sector, other than the building industry, has finished disgorging on to the labour market the redundancies which I think will come from those sources in the next 12 to 18 months. The Chief Minister has called this morning for employers in the private sector to employ more Gibraltarians. That is a call in which I do join with him because as we call for imaginative ways to overcome the restrictions imposed upon us by European Community rules and regulation, to overcome some of our local unemployment problems, I think, in fairness, we must all be imaginative and not just call upon the Government for them to be imaginative in the face of European Community laws. One of the ways in which we in Gibraltar can be imaginative in solving our own unemployment problems is that those of us

who are in business in Gibraltar and who have the opportunity to employ Gibraltarians should do so and, therefore, I join in the Chief Minister's call to the private sector in general and the Chamber of Commerce in particular to assist in the filling of such job opportunities as exist in favour of Gibraltarians. In this regard we welcome also the exchanges of views that appear to be taking place over the last week between the Government and the TGWU. But in relation to the policies that the Government has been following over the last five years and to what others, including ourselves, have been calling on them to do over the last few years, why has it had to take five years for the Government now to accept the need to establish apprenticeships in the traditional trades or to agree to set it up by September or to agree now with the Unions to set up a forum in which to discuss the issues? Where have the Government policies been in the last five years in relation to specific job creation schemes? More importantly, what do they propose to do for the next year or two? Since the purpose of this debate is not to examine history, what does the Government propose to do by way of a scheme to encourage and assist business start-ups because I suppose that the Government accepts, especially in an economy with a profile like ours, that much of the jobs that are going to be created are going to come from small businesses and not from a large organisation? Of course if the Government can entice to Gibraltar one large operator that would take up 100 or 150 jobs that would be extremely welcome. In reality and given that that is unlikely to happen, we have got to look to small businesses to soak up one, two or three employees at a time and that way deal with the problem. As we see it, this Government does not have, which we would have and we call upon this Government to acquire, a policy to encourage people in general, not just the unemployed but especially the unemployed, to start their own businesses because if they are successful they will employ others. These systems, these schemes, these policies, exist all over the world - I do not claim to be re-inventing the wheel - to offer such assistance, not just rent and rates assistance, but technical assistance and advice in starting up businesses, in how to run businesses, indeed perhaps offering them grants in aid to the more worthy ones and offering jobs subsidies. This Government has no policy for the creation of jobs in Gibraltar except it appears to send out the Minister for Trade and Industry around the world enticing people to come to Gibraltar and whilst he succeeds or not in that, time will tell, the Government have no policies to create jobs in the local market, be it in tourism, be it in port-related activities, be it in the finance centre or anywhere else. Even in a free market economy, governments accept the responsibility to have policies of that kind. In relation to training and apprenticeship programmes, we are indeed gratified to hear the apparent commitment of the Government - albeit belatedly

and if this morning's press is to be taken at its face value - now to set up an apprenticeship scheme. We have been saying for as long as we have been expressing our political views in public, that what this Government was failing to do was implement apprenticeship and training programmes in the traditional schemes so that Gibraltar in the future would continue to produce its own skilled craftsmen. In relation to the finance centre, that Gibraltarians should have the opportunity to get better prepared for the many jobs which are presently done in the finance centre by expatriates and which by dint of our own efforts that we mention five or ten minutes ago, ought in the future to be filled more and more by Gibraltarians. In the tourism and hotelery sector, I know that we have got a Vocational Cadet Scheme and that there are programmes now going on for hairdressing and for hotel cookery etc, but they are on a scale which, frankly, is too small to have the sort of impact on the provision of trained labour which if that had been started four or five years ago, would have been the case.

Mr Speaker, the question of an airport agreement in relation to the economic prosperity of Gibraltar is, regrettably, one that we cannot afford to ignore. In calling for all efforts to be made on our part to bring about expanded use of the airport to our own economic advantage, I do not ignore the political obstacles that are placed in the way of achieving that and not by the Government. I do not ignore that the obstacle today to the sort of airport agreement which we might all in this House agree would be in the interests of Gibraltar is not actually Gibraltar but Spain. Therefore, when I call for the Government to engage in dialogue at all levels in a way that may lead to an acceptable airport agreement, I do not accept the answer "I am willing to engage in dialogue but I am not going to engage in dialogue because after all Madrid views this or that". Unless we engage Madrid in a process of dialogue to persuade it to accept an airport agreement on terms which are commercial and which are acceptable both to Gibraltar and apparently to the Campo, who appear to be quite satisfied with just a commercial agreement of that sort, it is never going to come about because I do not see Madrid waking up one day and of its own volition saying "The Chief Minister of Gibraltar has been right over these years and here is an airport agreement of the sort that they want". It has got to be worked at and all the efforts and energy that the Government may invest in it may come to nought if Spain refuses to budge on that issue. But that is not, in our opinion, Mr Speaker, a reason why the Government should not enthusiastically espouse the talks and there is a difference between saying "I am willing to talk" and "I want to talk".

Mr Speaker, the other little item that we come to in the Estimates to try and gauge what the state of the economy is and is going to be, is the fact that the many items of

recurring Government revenue are either estimated to fall or to remain static in real terms. Having made allowance for those items of income which have been stripped out, either because of privatisation or because they have been diverted out of the Consolidated Fund, we still have the position where most of the items of recurring revenue are, in real terms, static or falling. Quite apart from the quantum of those revenues we have to ask ourselves the question of what the quality and the durability of those earnings are. For example, to what extent, if any, do the Government rely on the import duty collected in relation to certain items, for example, tobacco, for their long term recurring expenditure? It may well be that that revenue is the icing on the cake and when it dries up it dries up and we shall "onwards Christian soldiers". But what are the durability and quality of the Government earnings because we do not have that breakdown of, for example, the Head of Import Duties? We cannot tell. Many of the sources of revenue are not increasing in real terms and the problems of unemployment will mean decreasing Government revenues and increasing Government expenditure on social securities and things of that kind. We have to ask because we cannot see cash flow projections on the basis of the information that we have before us, to what extent, if any, do the Government have a potential cash flow crisis looming in the future? In other words, at what stage in the immediate future, if any, do the Government think that, if the revenue that they have estimated for does not materialise and the fact that their expenditure is fixed, they could have budgetary problems unsupported by reserves which may be parked in a place that I cannot see but which may or may not exist? These are all questions which somebody who was seriously trying to appraise himself of the real state of the Government's financial disposition would have to be asking. We have borrowing at record levels. These are all my list of visible indicia for the state of the economy. In Question 132/92 the Chief Minister revealed that the public debt at 31 October 1992 was £85.3 million; that was seven months ago. He now tells us it is about £92 million. Whether that is net or gross of the sinking funds I am sure he will tell me later when he replies. But, to what extent is that figure of £92 million and to what extent is he able to say proudly, as he has done this morning, that he does not feel that there is going to be a need to increase the ceiling of £100 million, due to the fact that borrowing which might otherwise and previously have been done through the public debt, ie. directly to the Government of Gibraltar, is now being done through companies wholly owned and controlled by the Government? I ask because this is one of the things that they have organised themselves to do and which I cannot see; how much money has been borrowed directly or indirectly, by wholly owned subsidiaries of the Government or of the Gibraltar Investment Fund? In answer to Question 252/92 it was made clear that there was

borrowing of this kind and I think that the purpose of that particular borrowing was in connection with funding of the 50/50 scheme by Gibraltar Residential Properties Ltd although one does not know. It may well be that is all the borrowing that has taken place but I am merely asking questions because if there were borrowing of that kind we would not know about it. When the Chief Minister says, Mr Speaker, that the public debt of Gibraltar is this or that, he is of course referring to the public debt as defined in the Constitution and as defined elsewhere in the laws of Gibraltar for which we are now voting as the Consolidated Fund charge, the cost of servicing. But, one has no means of knowing how much, if any - it may be as much or as little as the Chief Minister may privately decide - he may have borrowed through companies which are companies wholly-owned and controlled by Government mainly through the Gibraltar Investment Fund and which he may regard as not being part of the machinery of Government. Those of us who are evaluating his performance and those of us who are evaluating the extent to which ultimately the taxpayer, through one ingenious device or another of a mechanical kind, has to answer for the servicing of those loans, would like to know that figure not the figure that is visible because it has to be visible. Mr Speaker, as I say, there may be no more but the point I am making is that if there were more we would now know about it. Perhaps the Chief Minister would accept my little challenge to tell me how much exactly has been borrowed. The last time I raised this point he told me that the Government had an investment in Queensway Quay, in this and in that, and why should they take responsibilities for the borrowings of companies in which Government had a shareholding. Let us leave out the companies in which Government only has a minority or not a complete interest, relating only to the companies which are directly or indirectly Government subsidiaries; in other words, in respect of which the Government is ultimately the parent shareholder. Will he tell us how much, as at this date, if any, stands borrowed in the name of such companies and will he undertake, when he in future gives details of the public debt of Gibraltar, without including them as a public debt of Gibraltar if he does not want to, to say "That is the public debt of Gibraltar and in respect of these companies which are wholly-owned Government companies there is the following figure". That way we shall know the extent to which the Government have had recourse to borrowings by one means or another in the name of the people of Gibraltar to carry out the things that they are carrying out. The other matter in which the Chief Minister knows I have an acute interest is the capitalisation of the Government's property stock. We all now know that that has been achieved through the devise of recycling Government borrowed money through these companies and back to the Improvement and Development Fund. All that is just a mechanical means of achieving the capitalisation of the Government housing stock which now

finds its place in the financial statement of the Government because the shareholdings are now held on those properties and companies in the Improvement and Development Fund. Will the Chief Minister tell us to what extent, if any at all, those companies have created any form of security interest in either the buildings themselves or of the rental income flow from those buildings, in relation to the borrowings of those companies? Will he state whether that is a device that the Government would allow those companies to pursue if they needed to or wanted to? And I am saying "Would the Government allow..." with tongue in cheek, because as far as the boards of these companies are concerned, it is invariably Members of the Government in some cases accompanied by senior civil servants. Has that happened? Have the Government hawked the family silver with reference to this housing stock or have they not? But the answer is that we cannot tell. If the Supreme Court Registry were up to date with these registrations then I could go and find these things out for myself as eventually we will.

Moving on to the question of taxation it is also true that levels of taxation are at record level in Gibraltar. They have risen every year through the mechanism of no rises in allowances, although we recognise that the Government have made specifically and targetted tax allowances. But as far as the general body of taxpayers are concerned, the fiscal pressure on them has increased every year since 1988 on the assumption that they have not been able to avail themselves of one of these specifically tailor-made perks, invariably related to property purchases. And, of course, the fiscal burden on the taxpayer has risen through rate increases, as the net annual values rise from year to year and indeed through social insurance contributions which religiously rise every year as they did at the beginning of this. Every year a higher proportion in percentage terms of Gibraltarians who see earnings taken by the Government and not left to the individuals concerned. The Gibraltarian is severely overtaxed by comparison to almost anyone that one is prepared to compare him with in western Europe. The low to medium wage earners in Gibraltar pay up to 48 per cent more tax in Gibraltar than they would in the UK. It is all very well to say increases in GDP but increases at GDP created to some extent at the expense of an increasing tax burden on the individual and economic progress achieved to a great extent at the expense of the freedom of choice of the individual to dispose of his income. We would urge the Government, as we have done before, at the earliest possible opportunity which we suspect has been before now, to take the foot off the pedal of fiscal pressure in Gibraltar and to return to the Gibraltarian taxpayer that degree of fiscal relaxation which is being at the root of economic policies elsewhere in Europe and at least to restore his burden of taxation to what it was at the time that the Government achieved office in 1988.

The House recessed at 1.05 pm.

The House resumed at 3.00 pm.

HON P R CARUANA:

To the extent that the party is over and to the extent that economic activity has been promoted and stimulus has been provided by virtue of the investment-led activity of the last three or four years, is over, we now have a return to the pre-1988 basics of relying for our economic performance on the basis of our sustainable economic activity. That is precisely what I was trying to say this morning where we think the Government have relaxed too much over the last two or three years, concentrating too much by the same token on the infrastructural investments. The reality of the matter is that the marketing effort of the Government has so far yielded no real success and that they have enjoyed no success to date on job creation for the people of Gibraltar and in particular for the youth of Gibraltar for whom the job prospects look increasingly bleak. In the meantime, many of the projects which, with their undoubtedly impressive propaganda machine, the party in Government have extracted publicity value in large amounts over the last three years, have come to a grinding failure. I do not propose to list them all, it might take too long, but the Gibraltar Components factory has closed sooner than it had been anticipated. Much of the infrastructure that has been created in terms of real estate investment, offices and luxury flats remain unsold. Europort is described in the Financial Times, a little bit too unfairly, as a white elephant. Time will tell whether we can fill it or not but excluding Government taken space I think it is true that there has been no great measure of success in attracting to Gibraltar new business activities to fill that space in Europort. Much publicity was squeezed for the Government from the proposed Hyatt Hotel that is now not taking place and indeed existing hotels have closed down and indeed, and this is a point that we made during the election campaign, much of the office space that was available pre-Europort in developments that were new, remains empty. The last item that I would mention is that not even the never-ending infrastructural work on Queensway has met with too much success given that when it rains Queensway continues to flood, or perhaps more accurately put, notwithstanding the infrastructural work in Queensway that road has flooding problems which is worse than it was before the infrastructural works were undertaken, at least during particularly heavy rains. Therefore, Mr Speaker, in terms of the basic economic activities and leaving to one side for a moment the GDP figures that are thrown up on the basis of the tail end of the infrastructural developments that we are still engaged in or that the Chief Minister's last figures

that he gave us are still based on, given that they are quoted from historical figures, I think the Government need to realise and understand, if they do not already do so, that many of the businesses for which this economy depends for basic economic activity and therefore for employment, are facing extremely uncertain prospects and it is not limited just to the finance centre or to the tourist industry. There are sectors of the retail industry that are now beginning to lose part of the price competitiveness and appeal and the Government must now do what we say they ought to have been doing now for some time, i.e. concentrate their activities and resources into stimulating and providing assistance to the sectors of the economy which will provide the engine for its growth from now on. We believe that that will not happen until several things by way of summary occur. We believe that for the Government's economic strategy to succeed they must properly uphold an image for Gibraltar which is consistent with what they want to achieve, what we support them in achieving and what we all in Gibraltar hope they are going to achieve. They must invest in tourism and they must abandon their apparent view that tourism is not a sector and an industry to which Gibraltar should look for any large scale contribution to its economy. They must invest in tourism infrastructure and they must invest in a properly funded and sustained marketing campaign on tourism and they should do the same in relation to the port. There were hints heard this morning and in the press in the last day or two which suggest that they might, but they must reverse their apparent abandonment of training of Gibraltarians in traditional skills and services. They must realise the need for a more comprehensive and extensive job creation and business start-up scheme. They must attach more emphasis to the question of the retraining of Gibraltarian labour. Much of this has already been touched upon this morning. Much of this appears now to be taken on board by Government, whether on their own motion or as a result of representations made by the Union, but certainly to the extent that what the Government may now or in the future decide to do, coincides with what we think Government ought to do, then we look forward to giving them our wholehearted support to any measures that they make take in that direction.

Mr Speaker, conscious of the fact that I was on my feet for longer than I had thought this morning, there are matters with which I want to deal with between now and the end of my speech I will try to do so speedily. The question arises on Gibraltar and the Customs Union and there are opinions expressed as to whether Gibraltar should or should not, can or cannot, might or might not. The Government certainly expressed their views in answer to Question 1/93 where they expressed the view that the interests of Gibraltar were not in an economic and financial sense served by entering the Customs Union and I think the principal reason then cited,

although the answer was a brief one, was that because Gibraltar has no export trade in goods there was no immediate and apparent advantage in joining or being a member of the Single Market in goods especially if that was going to have onerous consequences in other areas such as internal revenue raising. Mr Speaker, the answer was given I noticed on a question that had an element of political content by the Acting Financial and Development Secretary and I ask myself whether that was not the political Members of the Government somehow leaving the door ajar for the future in case the situation should change. We accept that the question of Gibraltar and its relationship with the Single Market on goods and the Customs Union is a very complicated one and many issues arise. Some will throw up pros and others which will throw up cons, for example, is it practical for Gibraltar to substitute a relatively easy collection system of import duties for a relatively cumbersome and administratively more onerous VAT system? One is collected at the front end of an importation, the other requires businesses to make returns. There are all sorts of implications to abandoning the system of import duty, in purely administrative and logistic terms regardless of the consequences that it might have to the actual amount of revenue and the differences in the amounts of revenue that it must raise. The Financial and Development Secretary at that time indicated that there was a report last carried out in 1989 in anticipation of the Single Market and the impact of it on Gibraltar. I asked him if he would provide the whole of the document and he said he would not but he would provide parts of it. I would ask the Chief Minister to explain why that document cannot be made available. It is the sort of document that I think those of us that consider, for reasons that I am now going to go into, this issue at all would be assisted in our thinking by what might or might not be in that document that presumably deals with the more technical aspects of the issue. But the reasons why some of us think about this issue and whether it ought not to be taken, or at least explored, further is this. Clearly at the economic and financial there may be pros and cons or perhaps only cons but I think that the political considerations have got to be thrown into the balance as well when deciding whether on balance Gibraltar's membership of the Customs Union at some time in the future is more advantageous than disadvantageous. In the first place, it seems to me that those who have a hope that Europe will provide a political framework in which Gibraltar will one day be allowed to take its place and thereby diffuse the whole issue of Gibraltar as it presently exists, will presumably accept that that is harder to achieve if we are out of the Community for an aspect of it which is going to become increasingly more important. The concept of the Single Market; the principle of a customs-free single area; the whole question of the physical integrity of Europe; who is in and who is out as far as the outsider is concerned, in

purely perception terms; it seems to me that Gibraltar is going to find it easier to integrate in Europe, if it ever gets a chance to integrate in any political sense, by being, as far in as possible, in Europe and its mechanisms rather than being in for those that suit us and out for those that do not. The other political point that arises is that, of course, whilst we stay out of the Customs Union it gives Spain the opportunity to do two things. First of all, quite unjustifiably, create doubt in people's minds as to whether Gibraltar is in or out. Certainly our ambivalence and the fact that we are not in the Customs Union strengthens their hand. Secondly, it gives them a justifiable reason for maintaining any form of customs control at the border. In other words, once the External Frontiers Convention is put in place, the only justification that Spain will have for having any form of control at that border will be the fact that we are outside the Customs Union. If we were inside the Customs Union, then Spain would not, under Community rules, be allowed to implement any form of customs control. Given the sensitivity of many aspects of our economic activity to the situation that the Spaniards choose to operate at the border quite whimsically from day to day, from week to week or from month to month, I think it is reasonable to argue that if Spain did not have the scope to obstruct the border then that would be one weapon less that would be available to them. I am not saying that I am advocating Gibraltar joining the Customs Union. What I say is this. First of all that the issues that need to be put into the melting pot in coming to that decision are not necessarily just economic or financial issues; there are political issues both in the medium and long term that eventually would have to be thrown into that equation. Secondly, I ask the Chief Minister to make available to the House the report that he has in relation to this matter so that we can evaluate, in making up our own minds, where the balance lies even after taking into account that we are not underestimating the economic consequences of it. I call for the establishment of a Select Committee of this House to consider this issue. I think it is an issue that is going to become increasingly important to Gibraltar as the years go by and I think it is a matter that is suitable for this House on a Select Committee basis and as on a non-partisan basis as possible, to look into and investigate. I have recently had an opportunity to study the agreement between the European Community and Andorra. There is a territory which whilst not an integral of the European Community, has negotiated the agreement for itself, admittedly with the assistance of two friendly member States as interested parties, namely Spain and France and without a hostile one. There is an example of the sort of agreement that it might be possible for Gibraltar to negotiate to alleviate some of the economic disadvantages that might flow from that proposal.

Mr Speaker, I move on to a completely new subject; the question of GBC. I notice from the Estimates before the House that the subvention is proposed to be increased from £570,000 to £800,000. That would leave, in accordance with the figures that I have available, with that level of subvention, and on the basis of existing licensing and advertising income as presently enjoyed, a budget of £1.15 million for GBC for the forthcoming year. I do not know to what extent any or all of this year's subvention has already been spent last year because the whole question of finances of GBC has become a little bit convoluted given that GBC ran out of money at some stage during the course of its last financial year. I do not propose to go into any detail at all on the question of the finances of GBC. We had a debate in the House not that long ago on GBC but there are one or two remarks that I wish to make. I accept that the amount of money that the Government want to make available for GBC is a matter of political judgement for them. If they make available too little the result is a service with which the taxpayer is not satisfied. That is something for which we must be politically accountable afterwards and that is a matter on which we may have differences of views but I accept that it is a matter for their political judgement at this point in time. We believe that GBC must be given a realistic budget to provide a service. Once the Government has decided what amount of money it is politically willing to provide, then GBC must decide what service it can provide with that and any other money that it can raise. Therefore, it is legitimate for the Government to say "I am only willing to provide GBC with £800,000 and if that is not enough either they must change their shape or they must close down". That would be a matter for which the Government have political responsibility. What is not legitimate, however, is for the Government to expect GBC to perform its function on an inadequate budget so that they rely on the Government on a hand-to-mouth basis for their next month's revenue so that they are in effect answerable not to this House from year to year for their subvention but in effect answerable to the Government from month to month. That is placing GBC in a position where there is a political sword of Damocles hanging constantly over their heads. In our opinion that is politically unacceptable and illegitimate in the sense that there comes a point where it is tantamount to the potential subtle exercise of political control. If somebody has to account, if somebody has to ask, if somebody relies on Government decisions on short-term basis for their immediate future, human nature requires that that person must feel under a degree of constraint in relation to the manner in which it can deal with Government. This Government has been grappling with the problem of how to structure GBC since, at least, 1991 when it was debated on a motion presented by the then Member of the Opposition, Mr Ken Anthony - I think it was the first debate after the bye-election - during which the Government had already

stated that it was trying to solve GBC's future. Given the way that this Government operates and given their style in dealing with problems once they have identified them, it is unusual in the context of that style that two and a half years down the road we still appear not to have found a solution for GBC. Therefore, what I call, on a political sense, upon the Government is to state what their position is on GBC and to make the political decision as to the amount of money that they are prepared to make available to GBC, to communicate that information to the Board of GBC and then the Board of GBC must make their decision on the basis of the money available to them. But what I do not think is legitimate either is this business of Straits Vision and GBC and trying to keep the uncertainty going, perhaps until the preferred option of the Government falls into their laps in terms of a new shape and who is going to be in control in GBC and with what structure. I think that the only legitimate decision that the Government can make in relation to GBC is how much they are prepared to devote to it by way of subvention and nothing else and not to get themselves involved in the structures or whether it is Straits Vision or whether the Straits Vision bid No, it is the question of subvention. Television broadcasting in Gibraltar is still regulated by the Gibraltar Broadcasting Ordinance. It is a statutory corporation and it is not within the political control of the Government of the day as if it were a government department.

Moving on to another matter which I feel I ought to express comment, Mr Speaker, as quickly as I can is the question of the Companies Registry. The Financial and Development Secretary, it appears because it is not more than a press report, is now to remain as the Registrar of Companies and if that is true then, of course, we can contracturise the administration of the Registry in whatever way we like but the Financial and Development Secretary will remain legally, politically and constitutionally answerable for the day-to-day conduct and running of the Registry because he is the Registrar of Companies. That said, there are aspects of the proposed privatisation of the Companies Registry with which the Opposition cannot agree. Our disagreements are not in any sense ideological because we have no difficulty and we have stated our position in this respect already publicly, with the concept of a contracturisation of the Registry as part of the Government's policy of reducing the public sector cost to the taxpayer and of encouraging the investment of private capital in things in which the Government would otherwise have had to invest. That said, I do not understand how the Government could have contemplated - I still do not know if they are still contemplating that because one does not know when one is reading the press whether it represents fact or not - the contractor of a public service of this kind to have hidden behind foreign corporate vehicles and that the ownership of them were not

publicly transparent; not known to the Government on the basis of private disclosures. If the public are to have confidence in the manner in which this is being done, there must be complete transparency of ownership and control. That means that the real ownership of Companies House Ltd must be publicly visible at the first level of corporate structure which is the immediate shareholders of the company. We have no means of preventing the Government from doing it otherwise. We have no particular political interest either in raising this point for its own sake. We are expressing our views in the hope that some of our views may permeate into the Government's own thinking. We think it is unnecessary, improper and unjustifiable that the ownership of such a privatised service should not be visible and transparent for all to see and we would ask the Government to ensure that that is happening. We have our disquiet, of course, although it is a less important one than the first one, about this business of such visibly Liechestein interest which after all is a competitor finance centre being in control of such a prominent part of our own finance centre. I do not remember who said in the press how did we think the Isle of Man would feel if Gibraltar interests were to control the Isle of Man's Companies Registry. It does not stick. It does not read well. It does not look well and this is going to strike the international finance centre community as something which is extremely odd. There are elements of concern, some of which I share, both politically and professionally, in relation to the concept of privatising this facility in favour of interests who are also users of it. As has been recently been reported in the press, I think that all the parties that have an interest in Companies House Ltd, at least in so far as they have so far been publicly announced, are also persons that had interests in a significant, if not major, operator in the financial services business in Gibraltar i.e. Europa Trust Co Ltd. Frankly, it raises the question of whether it is proper that the operation of a public register should be in the management and control of persons that are also users of it with all the questions that that raises of potential conflict of interests and potential unfair competition. I raised this point, Government Members may recall, also in relation to the Shipping Register. If the Government wanted to divest itself of the Companies Registry, I think it would have made much better sense to try and form some more broadly based and more localised, almost a cooperative of the local industry, to have raised the necessary capital and to have done it on the basis which would not have lent itself to this scope for justifiable criticism which I think the Government has met not only to the manner of taking this important step in relation to the finance centre but in their choice and the identity of the particular contractor. Another area that concerns us is the scope for fee increases. The Chief Minister has said publicly that there is an agreement whereby the Government

will not collect less than they presently collect from the operation of the Companies Registry by which I suppose he means they will not collect less net, given that they have disposed of the staff. Rumour has it, that the Government is going to retain a revenue of £350,000 from the Companies Registry because although it collects £800,000 the balance between the £800,000 and the £350,000 which they are rumoured to be keeping under the agreement with the proposed contractor, is accounted for by the operating expenses, staff costs, etc. which the Government presently meet and which, of course, they are unloading on to the contractor. I think users of the Companies Registry and of the finance centre will want to know the basis upon which fees are going to be increased because one presupposes that these investors who are alleged to have invested £400,000 - the same little bird tells me that it is only £70,000 - presumably must make a profit from somewhere. So there is an apprehension on the part of users of the finance centre as to what the intention is by way of increases of fees and services. If indeed the capital investment required to set this matter up is not £400,000 but the much smaller sum of £70,000, perhaps the Government will give us as much information in relation to contracts as they feel that they can. Our position is that they should publicise the terms of their contract completely. If the figures of investments are as low as they are rumoured to be, it begs the question of why that investment could not have been made by the Government so that the benefit of the increased revenue that would flow to the Companies Registry, from its upgrading and from the expanded use of Gibraltar as a finance centre would flow to the public purse rather than to the private contractor.

Mr Speaker, the final matter that I wanted to deal with are matters that fall under the category of audit-related matters. Section 70 of the Gibraltar Constitution states that the public accounts of Gibraltar shall be audited and reported on by the Principal Auditor. That is the constitutional requirement that accounts must be audited and reported on by the Principal Auditor. It is true that section 56(1)(c) of the Public Finance (Control and Audit) Ordinance provides that the Principal Auditor may authorise in writing any person publicly carrying on the profession of accountant to conduct on his behalf any enquiry, examination or audit and such person shall report thereon to the Principal Auditor in such manner as he may direct. Section 57 establishes the nature and the scope of the audit required to be done by the Principal Auditor. The general scheme of that is that the legal responsibility for doing the audit is the Principal Auditor's who may engage private accountants to do any aspect of the actual audit work and to report to him for him to incorporate as he sees fit that audit work in his own audit responsibility. In his address to this House, Mr Speaker, in the budget session of 1992 (Page 157 of Hansard) from which, with your leave, I would

like to quote very briefly, the Chief Minister reassured me that the use of private contractors for the carrying on of audit work was of no real consequence in the negative sense. It was of consequence in the positive sense because private auditors were providing useful tit bits of advice which the Government audit service were not. He said when I asked him whether in addition to that the private accountants were doing what we called at the time the "civil servant type" audit. He replied that that was being done anyway and that is in fact what would be reflected in the Principal Auditor's report. "The Report that hon Members have for 1991 (I think he meant 1990 because at that time we still did not have the Audit Report for 1991) continues to show the same format, the same comments and the same information that has always been shown. The Audit Report of the Public Accounts of Gibraltar will not be altered in any way". Mr Speaker, I think that that is a reasonably far cry from what the Principal Auditor actually said a month or so later in his audit report. I take the liberty, with the Chair's leave, to quote from the Principal Auditor's Report attached to the Annual Accounts of the Government of Gibraltar for the year 1990/91 and I am quoting from pages 46 and 47, Part 8. Having set out at the beginning of his audit report the nature and scope of his audit and having explained the sections of the Public Finance (Control and Audit) Ordinance that I have cited from which gives him the right to engage private auditors to assist him with his audit work, he says at paragraph 8.1.2. "reliance on the work of other auditors does not make me less responsible for the audit certificate, nor am I relieved of this responsibility when the accounts to which the certificate relates contains amounts not audited by others. Hence, although the work of secondary auditors is subject to monitoring and review by them there is a need for the primary auditor, namely myself, to exercise a monitoring function as the audit is being undertaken and at the end review the auditor's work and papers to ensure that and then he sets out (a), (b), (c), (d) and (e) as to what he thinks he must satisfy himself by way of monitoring of the private audit works to establish Then he goes on to say "although I have attempted to satisfy myself as fully as possible that the above points have been met by way of a post audit review, which includes the examination of the working papers, I am concerned that I have not been able, due to lack of resources, to effectively monitor the conduct of the audit itself and that the process of review as shown above is seriously impaired by this. In this connection, I must reiterate what I stated in Paragraph 10.1.5. of the 1989/90 Audit Report where I drew attention to the fact that a consequence of the privatisation of a large part of the audit programme, the Senior Auditor post in the Audit Department had been removed. I considered that privatisation did not do away with the need for a Senior Auditor but, if anything made the function of monitoring and

reviewing the work of the audit teams in this field previously undertaken by them more important. I have made representations to the Administrative Secretary about this matter and also concerning the audit staff resources required for the completion of the in-house audits which include, inter alia, the examination of the accounts of the Treasury Department, including the final annual accounts, the Income Tax Department and a number of statutory audits including the accounts of the liquidators, etc. etc." Mr Speaker, I think that those remarks of the Principal Auditor are clear, and a clue was given to this effect by the Financial and Development Secretary at the last Question Time in which he indicated that the Principal Auditor was less than sanguine about the results of the experimentation with private audit work. Given that the Constitution of Gibraltar imposes the legal obligation to do the audit and to report on the audit and that it is the audit of the Principal Auditor, we do not think it is acceptable that what we are being served up by way of audits of Government Departments are audits which the Principal Auditor has to say in his report that he is concerned because of lack of resources; namely all the staff that Government had taken away from his department, and that he is unable to check the basis upon which the audit is done and that this shortage of resources is seriously impairing this. As a result what we have by way of audit certificate is what, in the private sector would be described as a qualified audit certificate. This is not an unqualified audit certificate. What it says is "I have examined the attached Public Accounts of Gibraltar for the year ending 31 March 1991 as required by the provisions of Section 71 of Annex 1 to the Gibraltar Constitution Order, 1969. Subject to the comments contained in my report dated 30 June 1992, I certify, as a result of my audit, that in my opinion the accounts properly present the financial position of the period under review". That is a qualified audit certificate. What the Principal Auditor is saying is "I have not had an opportunity of discharging what I consider to be my legal functions to check the basis of this audit and there they are and I give an audit certificate which is subject to the comments that I make about not having had that opportunity". One of the functions of this House is to act as a watchdog of the public purse, which the Government and us have discussed. I think that this House is legitimately entitled to express concern at that situation reflected upon by the comments of the Principal Auditor who is presumably not motivated by any malicious political desire to undermine the work of the Government. In the face of those comments and the representations that have been made to the Administrative Secretary, which he discloses, one looks at the Estimates under the heading for 'Audit' this year and in fact it is proposed to reduce the 'Personal Emoluments' from a forecast outturn of £90,000 to £82,100. So not only are the comments of the Principal Auditor fallen on deaf ears for having had

the audacity to raise the point at all, but now this year he is going to get even less resources with which to discharge his legal function. The Government suffer from the disadvantage that they are also the Executive, but wearing their parliamentary hats and collectively wearing our parliamentary hats and given that one of the functions of the House is to monitor and keep an eye on the way in which public expenditure is accounted for, I think that the state of affairs reflected by those remarks of the Principal Auditor are, in his own words, cause for concern. I would call, given those remarks, upon the Government to give the Principal Auditor, as I think it is their legal obligation to do, adequate financial resources to discharge his legal and constitutional functions. They cannot leave the Principal Auditor in the position where, through lack of resources, he is unable to discharge his constitutional functions as he sees them. The next thing that the Government will be saying is that the quality and the extent and the method of the audit of their own accounts is a matter for them to decide and never mind what the Constitution says on the matter. That position, if it were the position of the Government which I am sure it would not be, would not be acceptable to us. There are other aspects arising from the report of the Principal Auditor which I think, given the role of this House in monitoring public expenditure and under the guise of the discussion of the Estimates, it is legitimate for me to comment upon. If one turns to Page 33, of the Auditor's Report, under the heading "Housing Maintenance" it says, "Expenditure on the recurrent maintenance programme during 1990/91 amounted to approximately £2.74 million. Although a detailed maintenance programme is prepared every year at the time of the departmental submission for the expenditure estimates, it would appear that little control is exercised over it during the course of the year. I am informed that this is due to a lack of sufficient technical resources within the Housing Department. I have, however, noted that these have been increased from a staff of 16 to 22 officers at the time of the approval of the 1991/92 Estimates. The Department has explained that the Works Supervisors, there are 12 of these now as opposed to seven previously, are unable to control the vast number of individual projects and works. Their time is essentially spent ensuring the work is done, leaving no time for performance measurements and control. Taking account of the expenditure involved in housing maintenance, I consider that insufficient attention is being given to the supervision of the maintenance programme including ensuring that value for money is being obtained". I am not particularly familiar with the workings of the Housing Department but what that looks like to me from reading that is that here are £2.74 million worth of work then being done - I am hoping that the Government Members will be able to tell me that all this has since been corrected - without any regard to control and without any

supervision of the contracts out as to whether value for money was being obtained. A general election is being fought not a million miles from here, on points not dissimilar to that: about value for money in the Government service. That position, from the point of view of those of us who are here ensuring that public funds are efficiently spent and efficiently accounted for, demonstrates a significant problem, and I commend to the new Minister with responsibility for this matter, the Minister for Buildings and Works, to look into it, if indeed that problem still exists. I realise that this is a report on accounts but then that is a matter of priority and a matter of legitimate concern to this House. As is, on a much smaller scale, but is a matter of accounting principles and accountability to this House, the remarks of the Principal Auditor on Page 32 relating to the Education Department where it seems that the Education Department is operating deposit accounts into which go the fees that it receives for evening classes and spending that money out of the deposit account without either the revenue or the expenditure going through the mechanism of public accountability and control. "An audit examination of the deposit account for which the Director of Education is responsible has revealed that improper use is being made of the account. Departmental revenue arises from tuition fees collected for the College of Further Education have been credited to this deposit account instead of being brought to account under Revenue Head 6 Departmental Earnings: Subhead 51, College of Further Education Fees. Similarly expenditure incurred in the running of the courses provided by the College, such as lecturers' fees and the purchase of equipment, including personal computer and printer, have been debited to the deposit account instead of to the relevant expenditure". The sum involved there, I am sure, was small, and I am sure that having read this report as I am sure he has carefully done at the time, the Minister responsible for the Education Department will have been swift to take action to ensure that the practice discontinues. Accepting the fact that the scale of the abuse here has been small, as a matter of principle it raises a very important point if Government Departments are free to set up deposit accounts and collect departmental earnings, not account for them in the revenue of the department and spend them. It is only a matter of time before the Chief Minister cottons on to this and we end up not meeting here at all if the departmental earnings do not go into the Consolidated Fund and therefore we need not trouble the House with an Appropriation Bill at all.

HON CHIEF MINISTER

If the hon Member will give way, let me tell him that, in fact, we cottoned on to this recently. It was an invention that pre-dated the GSLP administration and we have taken steps to stop it when we have cottoned on to it.

I have not said that it is something that started on 1 March 1988. What I am saying is that the Government are responsible, the Government are the custodians of the public purse whilst in office and therefore I think it is legitimate that I make these points. There are other areas. On Page 24, if one reads between the lines, one knows what the Principal Auditor is saying when he deals with the Special Funds: Part 5 - Gibraltar Investment Fund. It is a fund which we view with a degree of suspicion as to what goes in and out of it but still it says "given the financial relationship that exists between some of the companies in which the Gibraltar Investment Fund has a shareholding and also between these companies and a larger number of associated companies, it would appear desirable in order to be able to account fully for all inter-company transactions that all such companies should have the same financial year end and this is currently not the case". One need not be a financial or accounting whizz kid to realise that what the Principal Auditor is alerting us to there, is that by operating a series of companies with different financial year ends and by the timely movement of funds, or perhaps of entries, between one company and another things can be kept in or out or at least choose the timing in which situations become clear or become obscured in any particular accounts of the Government of Gibraltar for any particular year. Given the comments of the Principal Auditor there and as I am certain that the intention and the motivations of the Government Members is not to organise the affairs of Government in a way that gives them the ability to do this, and given that it is a relatively simple thing to do, would it not be appropriate for at least all the wholly-owned companies of the Gibraltar Investment Fund to have a common accounting date as is common in company groups generally? The principal Auditor comments in relation to PAYE arrears (Page 35) at Paragraph 6.4.5. "The Commissioner has also pointed out that of the £4.46 million due as at February 1992 in respect of PAYE for the years 1990/91, £2.53 million relate to public sector companies". In other words, companies wholly-owned and controlled by the Government and administered by Government Members that habitually, it seems, do not comply with their legal obligations to deduct PAYE. The Chief Minister may get up in due course and ask "What are you complaining about? That we are not paying money from our right pocket into our left pocket?" [Interruption] I am delighted to hear that he is not going to say that because the Government have got to understand that whatever the accounting nuances of this, the effect that it has is to destroy the creditability of the Government when it legitimately as it must do, pursue private sector operators for not complying with PAYE or is it the intention of the Government to prosecute or pursue private citizens for

breaking laws that it habitually breaks itself? It topples the Government from the moral high ground that a Government should hold when it comes to upholding the laws of the land. When it comes to companies that are not even wholly-owned - perhaps with this comment I might wake up the Minister for Trade and Industry - eg. Gib Components Factor Ltd, there is a question of which a Minister is, in our opinion, unnecessarily, given that it is a minor and indirect Government interest, the chairman of the company. I would like to know whether that company owes the Government PAYE and if it does whether the Minister considers that he has properly discharged his public functions by presiding over the board of a company that has breached its obligations under the Income Tax Ordinance. If he has, does he feel that the Attorney General would be justified in prosecuting me tomorrow for not paying up my PAYE contributions? These are serious questions that are raised by this issue, because, of course, the Government cannot on the one hand say, "We are not politically answerable for the companies in this House because companies are separate in accordance with the ruling of the Speaker" but then when it comes to complying with their legal obligations say, "They do not comply with their legal obligations because after all they are part of the Government machinery". Either they are part of the Government machinery for all purposes, including accountability in this House or they are not part of the Government machinery for all purposes in which case they must comply with the law of the land like everybody else. I suppose that a large chunk of that was Gibraltar Shiprepair Limited which the Government having hurriedly sought and hurriedly repealed the Gibraltar Shiprepair Limited Ordinance presumably and precisely in order to avoid having to bring the final accounts of Gibraltar Shiprepair Limited to this House so that they would not have to disclose the full extent of that company's eventual non-compliance with its tax obligations, if any. The Government once said in this House that they might bring the closing accounts of Gibraltar Shiprepair Limited even though they had no statutory obligations to do so and I challenge them to do just that and to present the accounts of Gibraltar Shiprepair Limited to this House regardless of the repeal of the Gibraltar Shiprepair Limited Ordinance. Finally, before I leave PAYE, there is the question of unfair competition. If the Government is going to go into the market place to conduct business through the medium of joint venture companies or wholly-owned Government companies, they cannot consider it proper to give themselves the unfair advantage of allowing their own companies not to pay social insurance contributions and not to pay their PAYE. One would have to be a fool not to make profits with that sort of commercial legate of not having to pay the same overheads as everybody else. The Government must ensure that any company in which they have any shareholder connection, especially with Ministers sitting on the board, must scrupulously and on a

timely basis comply with its obligations to pay revenue to the Government especially revenue that it is under a statutory obligation under penalty of criminal sanction for withholding and not forwarding. The final reference that I would like to make to the Auditor's Report relates to the question of unauthorised expenditure. We all understand that the exigencies of the Government machine will require these things to happen and, of course, the law recognises that by giving to the Financial and Development Secretary, if indeed he still exercises this power, to authorise virements within subheads. I suppose that that he still does and what the Principal Auditor says in relation to that, at Paragraph 3.2.2. is, "It would appear that a number of controlling officers continue not to avail themselves fully of the provisions of section 45 of the Public Finance (Control and Audit) Ordinance by seeking the authority of the Financial and Development Secretary to vire funds within their heads of expenditure. This facility exists to be utilised in the exigencies of the public service render it necessary to incur expenditure which was not envisaged at the time of the Estimates. The authority for the reallocation of funds must be sought from the Financial and Development Secretary in advance to the expenditure being incurred". I would have thought that it was a relatively simple matter, although perhaps I am mistaken in that regard, to impose as a matter of disciplinary rule that on one's head be it if one incurs unauthorised expenditure. It would be very worrying if the controlling officers, all of them senior civil servants, were incapable of comprehending that they cannot spend money that has not being either authorised by this House or authorised by the Financial and Development Secretary pursuant to the statutory machinery that does so. My next and last reference to page 45, where it appears that the Minister for Trade and Industry is the biggest culprit because under the heading 'Unauthorised Expenditure', the expenditure not authorised either by this House or by the Financial and Development Secretary under section 45, in respect of the year ended 31 March 1991, exceeds £1 million. £150,566 spent by controlling officers vired in effect from one subhead to the other without the prior control and £868,064.09 from the Improvement and Development Fund by the unauthorised use of expenditure. The total is £1 million and I think that this House is entitled to know and I am sure I will hear what the logistical difficulties of this are. We are all reasonable people and we have got to make exceptions for the difficulties and human error but I think that this is systematic abuse of the appropriation mechanism and it is not acceptable to this House and should not be acceptable either to the Government Members. I think that as a Government, they must give this House their undertaking that these things, at least not on this scale, will not reoccur in the future.

HON J C PEREZ:

Mr Speaker, comments made by the Principal Auditor have not escaped Ministers. The Principal Auditor's Report did come out some time ago and when the Chief Minister replies to the Hon Mr Caruana he will get to know that a lot of the issues raised, as is customary every year, have been tackled or are in the process of being tackled. Indeed the stringency of the financial restraints that are the subject of the Estimates this year are partly due to issues that the hon Member has raised. He goes on and on and on as if the matter was being let to carry on without knowing first whether it has stopped and whether there are remedies already operating. He goes on as if the whole thing was a scandal and everything is toppling as he says. It is wishful thinking that everything topples every five minutes. I am sorry to tell the hon Member that it is wishful thinking and again I tell him as I did privately that most of his anxieties are all in his mind. It is the way he is. He is a suspicious character. He trusts no one and he thinks everybody around here is No. I am not giving way. The hon Member has been since lunchtime giving us a tirade of everything that he has said over the past year from the optical illusion in the election to the lack of information and so on and so on. He has repeated himself hundreds of times and I am not going to give way to the Leader of the Opposition. But of course it shows that the Leader of the Opposition, and presumably that is reflected in the Opposition benches, is bankrupt of ideas, of alternatives and the only thing that he has criticised is the style of Government and the lack of information. He has offered no alternatives, he has offered no solutions to the problems other than the ones that we have given solutions to or we are giving solutions. He has painted a picture like the one that he has of a scurrilous Gibraltar with a bad name where people are not coming because of the reputation that we are getting. That reputation is being given to Gibraltar by the hon Member and his colleagues because if the picture that has been painted by the Leader of the Opposition today in this House were true, Mr Speaker, he and his colleagues would be out of work because the business would not be coming to Gibraltar.

[Hon Members: Shame!]

There is no shame in what I have said. There is shame in what the Leader of the Opposition has said and in the reputation that he is trying to give Gibraltar. He would like Gibraltar not to make it, Mr Speaker. He is going to be very disappointed because he is going to go all the way to the next elections talking about an optical illusion and when we come to it the only optical illusion

is himself. Last year I said in my speech at the Budget that we would achieve what we set out to achieve and that we would maintain in the economy 14,000 jobs and we are maintaining 14,200 jobs. That is a very good record, Mr Speaker. The whole of Europe is in recession, is in minus or no growth and the Gibraltar economy continues to grow. That is not an optical illusion but the only thing that the Opposition are interested in is criticism for the sake of criticism; for political opportunism. That is all they are interested in. The Leader of the Opposition comes to this House and he talks about the rumour or the innuendo of corruption and by doing that what he is trying, because he has got a legal mind and he deals with jurists, probably quite successfully, is to place in people's minds the doubt that he himself has. So he creates the impression that there might or might not be corruption. He can go and look for corruption in Italy and in Spain. There is no corruption in this Government and there is no corruption in Gibraltar.

HON F VASQUEZ:

Rubbish!

HON J C PEREZ:

Rubbish? The hon Member must substantiate it. Mr Speaker, the people of Gibraltar are the jury at the end of the day and they make a judgement on facts and on the achievements of the Government and not on rumour, gossip, and innuendos. The wish that the Opposition have that we should fail is just to make the point that they were right because they do not know how to adapt and they do not know how to change their attitude for the good of the people of Gibraltar. Mr Speaker, most of the issues that the hon Member raised I am not going to touch upon because the Chief Minister will do so in detail but in essence the hon Member has been keeping us here for a few hours saying that we do not want to give him information and because we do not want to give him information he unjustifiably creates doubt in people's mind to try and embarrass us into giving him the information. Enfant terrible? I think not, Mr Speaker. Enfant horrible! He is in good company. The hon Member sounded to me like if he were a Minister for Tourism in the old AACR guard days because that is in essence the arguments he was putting. The arguments that since 1972 we have been hearing in this House when I came to the visitors gallery and then when I was a member of the Opposition, from AACR Minister of Tourism. In fact he was talking about the pillars of the economy and I thought that I was in the Opposition and we were listening to the old AACR guard days when we were talking about the port, ship repair, the finance centre and tourism as the pillars of the economy. I

thought all that was behind us but perhaps because the hon Member has the only relic of the AACR that was left behind and he inherited, he might be swayed in that direction. Indeed, to put that as a political alternative after all the things that have happened and all the ground that we have gained is indeed to take a gigantic step backwards which I am sure the people of Gibraltar do not want to take.

On the question of GBC, the Chief Minister will be making the position clear to the hon Member at Committee Stage when the matters come up. I do not know from which horse's mouth the hon Member has got the information now to say that there is an inadequate budget and that there are stringent controls placed on GBC weekly and monthly. If that were the case then we would not be in a position where they have overspent their budget and as the hon Member quite rightly said, we are having to provide money this year for what they have already spent from this year's budget. [Interruption] No, we have given them a cheque at the end of the month because they did not have money to pay salaries and they did not have money because they had been running GBC very inefficiently. The hon Member is right in saying that it is not usual that two years down the line a situation like that, with the style of Government that we offer, should be there. It is there because of the arms length relationship that we have with GBC and because of the need to maintain the independence of GBC and to maintain the situation at arms length. That is finished. On this occasion, and after we have gone through the process of accepting suggestions for solutions from other people and other parties in GBC, the financial solution for GBC is going to be decided by the Government and it is going to be decided on the basis that the financial proposal that makes better sense is the one that the Government might be prepared to back or not at all. [Interruption] Yes, because if I am going to be blamed for the failure of the option the last time and I did not take a decision, I am going to take a decision now whether the hon Member likes it or not, whether he agrees with me or he does not agree with me but the Chief Minister will expand on that later. [Interruption] Well, if the hon Member knows something that I do not I am prepared to give way on this occasion for him to explain to me why he thinks that I ought to congratulate Straits Vision. I give way.

HON P CARUANA:

What I do know is that Straits Vision appears to be the Minister's preferred option.

HON J C PEREZ:

Well, the hon Member knows more than I do because I have not seen their proposals or anybody else's.

HON P R CARUANA:

The Minister has not seen the Straits Vision proposals?

HON J C PEREZ:

No!

HON P R CARUANA:

That is incredible.

HON J C PEREZ:

They have to come in on the 1st June or does not the hon Member's horse tell him that?

HON P R CARUANA:

I do not have a horse in Straits Vision but if the Minister is suggesting that he does not know the details of the Straits Vision proposal then he is misleading this House.

HON J C PEREZ:

Mr Speaker, I now come to the nitty-gritty and the bulk of the substance of the contribution which deals with the real matters that concern Government and not with only the politicking that takes place from time to time. The strife to provide better services to the community continues within the framework and structures already established. Those services dependent strictly on Government finance might perhaps suffer somewhat in the coming year because of the financial constraints that have been necessary as a result of dire economic scenario internationally, coupled with the continued rundown of the Ministry of Defence in Gibraltar. Against this bitter background it is important to stress again, notwithstanding the hon Member's comments, that the Gibraltar economy has continued to grow and that the number of jobs has remained on target, although, as the Chief Minister said this morning, the emphasis from now on will be on job creation for Gibraltarians.

Other public services which are run by companies on a joint venture basis are not subject to the same financial consideration as Government departments since these are subject to normal commercial considerations. In this context, both GibTel and Nynex have this year achieved improvements and innovations for their customers, keeping

abreast of work technology and leaving no stone unturned in their strife to offer first class telecommunications in Gibraltar. Both companies are now exploring seriously the possibility of joining up to offer video conferencing via satellite and a mobile system that will be compatible with and be able to be used in the rest of Europe when Spain and Portugal instal the same system in 1988/89. It is this year that the liberalisation of voice telephony within the Community is expected to come into being. Gibraltar is not only ready to face competition from the European operators but looking at new possibilities for expansion that this liberalisation might bring with it for the existing licence holders. The Government has also been involved during the last eighteen months with an international telecommunications project called FLAG; Fibre Optic Link Around the Globe. Whilst we are sure to be able to link with this satellite cable, the longest satellite cable in the world which will join the UK with Japan, we continue to negotiate a greater participation for Gibraltar in this project. Details of this will be given when the negotiations are finalised.

Broadcasting, I have already dealt with and I have made quite clear to the hon Member that the Chief Minister will be expanding on it at the time of the Committee Stage. I would like to stress on this issue, that the deadline of 1 June for proposals to be submitted has been put so that we do not continue to allow the situation to drift as it is doing at the moment. If any party were to feel restraint by 1 June in preparing the proposals, the Government has no objection to allowing more time to that party within reason to make those proposals but we put the 1 June deadline so that the matter is dealt with expeditiously now since, as the hon Member said, the saga has been going on for two years and we have to take firm decisions and give a lead now on what is going to happen. Indeed, I see the Leader of the Opposition mimicking because I mention the word "party", perhaps if he wants to put the proposal I am prepared to consider it, although we might expect already the result of what he is probably going to propose if it has got anything to do with what he has mentioned in the House before as a solution. Of course, if he has got a financially viable proposition to make for the running of GBC, I will look at it seriously.

I am happy to report that the fifth electricity generator of the contractor OESCO has already come into service and that a sixth engine is due to come in at the end of the year. This will give Gibraltar a capacity of some 38 megawatts with a peak demand of some 22 megawatts. It will allow for simultaneous maintenance to be carried out on engines in both power stations without the need of falling back on the MOD power or indeed of overrunning

the engines to maintain a supply. Those hon Members with a good memory will recall that when we first came into power some five years ago, the capacity available was some 25 megawatts, half of which was made up by engines which were thirty and forty years old and in need of replacement. That replacement, together with the necessary infrastructure that goes with it in respect of feeder cable capacity etc. is now nearly complete. Government have agreed with the contractor that before proceeding with engines Nos. 7 and 8 that we should consider whether the timing of the installations should be delayed given the available capacity in respect of present demand. With the electricity acquired from the incinerator plant we have not been so lucky. Here the problems lie at the other end of the spectrum and we are having meetings with the operators to see whether the permanent nature of the supplies is able to be maintained with ample warning of a cut in supplies. This, Mr Speaker, is what has caused most of the minor interruptions in power which we have been experiencing recently. The matter is being addressed by all concerned and will have to be resolved one way or another very shortly. Engine No. 3 underwent major repairs with work commencing in February and ending in the first week in April. All tests carried out at the time of the commissioning have been found by the technical people to be satisfactory and the engine has operated reliably for almost 1,000 hours. Special terms were agreed with the manufacturer, payment for the repairs is to be staged and an extended warranty condition was also acquired. For the benefit of some Opposition Members still in their teething years in this House, I shall give a technical explanation of how the electricity network operates so that they should not quote me out of context. When I expressed a view that power cuts would become a thing of the past..... If the hon Member does not wish to listen to it, I shall skip it fully. I think I will skip it. I will not waste the House's time because the hon Member does not seem to be interested. He is just laughing. Mr Speaker, because of the innovative nature of the incinerator, it necessarily brings teething problems with it as well. I would like to state nevertheless that the incidence of interrupted supply will be negligible.

Water capacity, is another area in which we have achieved self-sufficiency in a short period of time. The amount of water emanating from the incinerator is again less than expected but this does not alter our position. The billing process established by Lyonnaise des Eaux has now been regularised and awareness of customer needs and service to users generally have improved tremendously.

As in previous years, Mr Speaker, the City Fire Brigade has fulfilled its obligations to the public by providing them with an emergency service of the highest calibre. During 1992 the Brigade responded to a 1,000 emergency calls, two-thirds of which were non-fire related and includes two incidents which, for the first time, required the use of the Brigade Diving Team. Two other incidents worthy of mention are the rescue of a young man from under a collapsed concrete roof and the pumping out of a vessel whilst at sea and in danger of sinking due to the rough seas prevailing at the time. The Fire Preventive Department has also been busy carrying out nearly 2,000 inspections. The purchase of a new fire appliance at a cost of £67,000 has enhanced the Brigade's fleet of vehicles which is well maintained by the Brigade's workforce staff. The Brigade has this year seen the construction of its new club premises at the rear of the station. This has been a costly project with the majority of the funds coming from the social club's own funds. The old premises will be used for much-needed operational matters. There is no doubt in my mind that the City Fire Brigade is a department which is continuously revising and improving on its performance and standards, keeping fully abreast of technological changes and adopting these as they affect Gibraltar and leaving no doubt in anyone's minds that they shall respond to any challenge put to them. The Brigade is also administered well and always keeps within budgets. I commend them for that as well.

Mr Speaker, as the Chief Minister has already explained, the prison will shortly be taken over by my hon Colleague Mr Mor, within the ambit of the Ministry of Social Services. It is better placed in that framework and releases me from some of my workload. I would like to thank the staff for the consideration they have shown me during my time as their Minister and the Board for their continued dedication to their task.

The Traffic Commission continues to implement a variety of measures designed to keep traffic in Gibraltar flowing and I am glad to say it is achieving great results. There are occasions that residents in different areas seem upset by some measures taken but these are necessary given if the emergency services, public transport, and the refuse collection vehicles are to continue to have access to these areas. Concessions for the building and running of car parks have been granted to several developers in different sites in Gibraltar. Some of these will take fruition and others will not because negotiations between the tenants living in the surrounding area and the particular developer have broken down. Government is not in a position and will not subsidise private parking facilities. More and more

people are, however, being encouraged to take up private parking which is good for the environment and for the traffic flow generally. The Commission continues to monitor the public transport services and although there are still, inevitably, complaints from time to time, both taxis and buses have improved their services and their relations with the public. The new bus routes are currently taking place in order to service adequately new developments and housing areas such as Westside, Europort and Queensway Quay. Road resurfacing which has been transferred to my Ministry has continued to have a high priority in 1992/93 and will continue to have a priority although within the financial constraints set out by the Government. The section has taken a certain amount of work in the private sector which will help to generate part of the money that they intend to spend during the year. The Leader of the Opposition, in talking about the infrastructure, mentioned the fact that Queensway seems to flood when it rains. He does not seem to understand that the only thing that happens in Queensway as far as infrastructure is concerned is that it passes through there to get to Westside, but it has nothing to do with Queensway itself. The major refurbishment works at Queensway which would have an impact on the flooding or non-flooding of Queensway has still to take place when the resurfacing of the whole of Queensway takes place and the new sewage system in Queensway proper is connected to the main sewer. What passes through Queensway is the main sewer but that has not got any impact but on the water flowing from the road itself. Not yet, not until the works are carried out. It is not that we spend a lot of money in infrastructure which is now not working which is the optical illusion that the hon Member was trying to portray.

Looking at the Post Office, as the Chief Minister has already explained, the Savings Bank which, in essence, was already being administered by the Chief Minister is now officially passed on to him but I have had very little to do with the Savings Bank; it has always been a matter that the Chief Minister has dealt with with the Director of Postal Services. On 16 July last the Government Savings Bank became the Gibraltar Savings Bank. It continues to offer investors the same facilities as before, i.e. 1 year fixed term bonds, monthly debentures and ordinary savings accounts. Air mail services to Morocco were resumed in December on the introduction of GB Airways flights to that country. Bulk mailing facilities have seen direct mail services to Denmark, Sweden, Norway, Belgium, Canada, Austria, Finland, Greece, Hong Kong, The Netherlands and Luxembourg. I must state here that there is no specific contract for bulk mailing with any company because we wanted to leave our options open to be able to allow bulk

mailing to certain destinations and to stop it to others, given that the matter continues to be under review in the EC and could be a short-lived thing. The EC might come down very strongly against bulk mailing and stop The Netherlands flooding other postal administrations with a lot of mail from other countries. We have got a small but steady business going but it could be short-lived if the Commission falls heavily against bulk mailing. I mention it because several business reports have mentioned bulk mailing as one of the areas for growth in the economy and it is not an area that we might be able to exploit in the future. There are now 941 post office boxes operational. It is intended to instal four pillar boxes in the areas of Europort, Montagu Gardens and Harbour Views Estate during the year. Philately, continues to hold its share of the market although certain changes are envisaged in the coming year both locally and in our contractual arrangements abroad given the effect of the Single Market on the industry. Hon Members will recall that recently we had Paulo Da Rosa in Gibraltar who has been representing us in Italy and Switzerland and there are different arrangements being talked about with him and with Crown Agents to see how our contractual arrangements for the sale of stamps and, indeed for the whole of the running of the Philatelic Bureau might develop from those talks with the gentlemen concerned. Both the Director of Postal Services and myself, together with the staff of the section, continue our contacts with our agents and customers and continue to have a Gibraltar presence in exhibitions abroad. The Post Office is now also disposed for coinage although I share the responsibility ministerially with my hon Colleague Mr Michael Feetham. A new 10p coin is already in circulation and the old 10p coin will cease to be legal tender as from 1 July 1993. The Post office has also recently become Nynex's biggest outlet for telephone cards which we market from the Philatelic Bureau.

Initial monitoring of the changes in the lottery seem to indicate that whilst up to now we have not yet succeeded in increasing further the sales of the regular draw it is not lower than what it used to be. The potential for the lottery vendors to sell more, they believe is still there. The big £1 million draw is selling steadily but it is a new market for us which will improve when the liberalisation within the EC for the sale of lotteries takes place. We need, however, to be operational before that time and are confident of making it work but we are pronouncing ourselves cautiously optimistic at this stage and that is reflected in the revenue yield expected from the lottery as a whole in the Estimates.

Industrial relations, Mr Speaker, continue to have a special significance in our strategy as a Government and

as a good employer. The Personnel Manager's Department continues to implement Government policy in this area with the tact, care and understanding that the job entails. Inevitably, there are industrial disputes given that we have got a very wide area that we cover but I am glad to say that generally matters are resolved satisfactorily.

There is one other item I would like to mention before I finalise, and that is that although the Port Department comes under my hon Colleague Mr Feetham, I have been taking on some of the work from him in the Port whilst he is involved in other business. He will eventually be taking it over from me again and I heard the comments of the Hon Mr Caruana when he said that the activity in the port had improved and trade had increased despite the Government and I thought that it was totally unfair given my close association with the operators in the port and my close knowledge now with the work that has been done by my hon Colleague and by members of his staff in promoting new businesses in the port, in creating the competitive element in the port, in responding quickly to the demands of both employers and employees for new business activity and stimulating it and in the close contact that is kept at all levels. In good part, the growth in the port is the result of my hon Colleague's efforts in the past years in looking at the competition and making sure that we were providing a better service and a more competitive edge to the extent that now Algeciras is complaining. The hon Member might think that that is despite the Government. I know differently. The port operators know differently. The workers in the port know differently. I leave him with his optical illusion and I sit down with my realities, Mr Speaker.

HON M MONTEGRIFFO:

My contribution will not start as vociferously as my hon Friends but I must say that the reason for that is because I regret that I have lost the power of my vocal cords ever since I joined Government. Nevertheless, I must say that in my contribution I will not be speaking about optical illusions. I will be giving the House a true picture and I will be giving them true facts and figures related to my Departments.

Every year I give a summary of developments in all of my Ministries. This year, absent from my contribution will be a department, which though small, carries out quite a number of varied functions. That is the Environmental Health Department. I think it is an opportune moment to place on record my sincere thanks to all members of the staff who have helped me and given me their support over so many years.

With the medical services, we embarked on a programme of building two new hospitals within old buildings, much the same concept as the Government did with the old South Barracks, which today is a new school. Obviously, with hospitals the pace must necessarily be a slower one because of the necessity to decant patients from the wards. This is the reason why Private Ward has been used constantly for this purpose since we took up office. But I am glad to say that this ward was also extensively refurbished and today it is being used as maternity. Again because we are talking about old buildings, repairs to roofs and exterior walls have also taken place. I gave a commitment to the Opposition Member that during the Budget session I would give a summary to the House of the works that have been undertaken during this financial year at St Bernard's Hospital which in effect is something that I do every year. First of all, I would like to mention something on the nursing side, because of the achievements in this area, especially on the results of the adaptation courses leading up to UKCC registration which we are doing in conjunction with the Sheffield and North Trent College of Nursing and Midwifery. This has meant a major breakthrough for local nurses as they no longer require to go to UK for a period of training as a condition before they can register with the UKCC. Seven adaptation courses have been programmed since February 1992 and up to the fourth, every nurse that has undertaken the course has been successful in completing it. As I have already informed the House during Question Time, once our nurses have registered with the UKCC they are accepted by all EC countries. The UKCC is now demanding of their registered nurses that, after a period of three years before they can re-register, they need to undergo an updating course which is called a Post Registration Education Programme - (PREP). It will commence at the end of the year or once our adaption courses have concluded. The necessary development literature have already been ordered for distribution amongst trained nurses. They will then be responsible for keeping their professional folders updated and our nurses training school will be offering in-service training to coincide with the introduction of 'PREP' by the UKCC. Through Sheffield, we have also been able to continue sending our nurses for further education on specialist areas. A total of eight nurses have been sent this year and the courses attended have been on accident and emergency, intensive coronary care, orthopaedics, theatre, care of the elderly and midwifery. On Sheffield's recommendation the Campus 2000 computer system was installed in March 1993. This reduces the isolation of the teaching staff and provides computer aided learning facilities. It enables the school to access the database of the college and also the English

National Board and obtain information on the latest research and changes on nursing techniques. In conjunction, this time, with Ashworth Psychiatric Centre, a new course was started in 1990 in Gibraltar with their instructors on control and restrain and they were completed last year. They involved a number of nurses from both the general hospital and the Psychiatric Unit. Moreso, we now have five nurses who have qualified as instructors themselves and refresher courses will commence shortly. We are presently looking at John Mackintosh Hall as the venue.

I would now like to move to another department of the Health Authority: the laboratories of clinical pathology and public health. Last September we issued a press release to announce that they were approved by the Council for Professions Supplementary to Medicine of Great Britain for the training of medical laboratory scientific officers, leading to British state registration. The capability of the laboratories was assessed by members of the UK Council during their visit last year. This means that for training purposes our laboratories are recognised and it is a great achievement when we are talking of laboratories that serve a population of 30,000 people.

Last year, Mr Speaker, I informed the House that we were giving a lot of emphasis on health education as a means of preventive medicine. There is an excellent liaison between the staff of the chief welfare service and our Maternity Department which ensures that all babies are followed up with the necessary assessments. It is satisfying to note that the immunization service continues to progress. The number of babies and school children being protected by the use of vaccines is increasing. In the case of the measles, mumps and rubella vaccine, the change-over as advised by the Department of Health, went smoothly. It is our intention to introduce vaccination against haemophilus influenzae meningitis once supplies can be guaranteed. Within the Department we also protect our staff by our hepatitis B vaccination programme. We offer this protection to every single person working within the Department. The laboratory has now acquired the kits to test individual members of the staff for sero-conversion which is the final part of our programme. This means that we now know who is protected and who is not. We are also protecting our elderly and those compromised by ill health by our ever popular anti-flu vaccination programme.

On the question of works within the hospitals, I am pleased to announce that all major works, interior and exterior, have now been completed at KGV Psychiatric Unit save for one bathroom. These works are estimated to cost

in the region of £25,000. The amount of money spent at KGV in one year has reached the £100,000 mark. The whole of the exterior facade has been extensively refurbished and all windows have been replaced by special aluminium ones. Two bathrooms have been completed, staff and domestic areas and the corridors and recreational areas have all been painted. The kitchen was also tackled at the beginning of the year and a new shed has been constructed to house a new emergency generator. The works undertaken during the last financial year have been extensive. But I must say that the major one which is presently being undertaken at St Bernards is the Maternity Department, as I said earlier, temporarily being housed in John Mackintosh Private Wing. This ward is taking longer to complete compared to other wards, because it involves two floors and is therefore being done in two phases. The estimated cost is in excess of £100,000. We have also repaired the roofs adjoining Godley Ward and other roofs within St Bernards as a whole. Other works have been carried out to the following areas:

- Eye Clinic
- Porters Lodge
- Mortuary
- The corridors
- Private
- Lady Begg
- School of Nursing
- Physiotherapy
- X-Ray Department
- Kitchen
- Senior House Officers Flats
- Stores

We are also keeping up on an annual basis, a maintenance programme for all the refurbished wards and the corridors so that they continue to be kept to the same high standards. The programme is presently costing the authority approximately £22,000.

On the health centre, hon Members know that we were looking at different options and I announced in the last meeting of the House of Assembly that the Environmental Health Department, who have recently moved out to an area in Town Range, have left us with the second floor which will be used to provide much needed space to the centre. However, the contractors are still working on the plans and I am still not in a position to provide more details. Of course, as I said in the last meeting, the management of the Health Authority and myself will be consulting with members of the staff.

The main items of expenditure on the equipment side have been £49,000 for an opthalmic laser, which we hope will soon be set up, and again very nearly the same amount of money - £48,000 - for an image intensifier. The total cost of the intensifier came to nearly £100,000, and we managed to do a joint venture with Banesto who very kindly donated the remainder of the money, being the biggest donation the Health Authority has received. We are very grateful to them. These two pieces of medical equipment are the latest models in their particular range. The laser is new to our eye clinic and in some instances will reduce the number of patients that are being referred to the United Kingdom. The image intensifier greatly improves the quality and the efficiency of operations being undertaken especially in the field of orthopaedics, as the surgeon is given a visual display on a computer operated screen assisted also by a computer print-out. The amount of radiation is also reduced as patients no longer require to have as many x-rays as previously. To give more examples on equipment, in urological instruments we have spent £28,000, in electro-medical £42,000. In the laboratory we have spent about £18,000 in equipment, endoscopy just over £14,000; theatre £22,000. In obstetric and gynaecology, a very useful piece of equipment is the colposcope which reduces the incidence of surgical intervention, and a hysteroscope, which assists in the removal of the lining of the womb.

I have tried to summarise as much as possible, Mr Speaker, to give the House an indication of the amounts of monies that the Health Authority has spent in works and equipment. To give the House an idea when we add both figures together we are talking in excess of £720,000 both for works and equipment. For the forthcoming financial year, there is just one ward left to refurbish, that is Lewis Stagnetto, the female geriatric ward. We cannot tackle that ward until maternity is completed because we need to move out maternity into its own location when it is refurbished and then from Lewis Stagnetto to private wing.

I cannot finish my contribution without thanking all those organisations, schools and individuals, who are living up to our reputation of being an extremely charitable people. We continue receiving a lot of donations and I am very grateful to the community.

I now move away from health to sport. For the financial year 1992/93, the amount made available to the Gibraltar Sports Advisory Body for financial assistance was increased to £45,000. This amount compares with £15,000 available before we first took up office. This has enabled Gibraltar sportspeople to be able to compete with

a much more reduced financial burden being placed on them. In official international competitions, I can say that a lot of associations have competed against many nations, much bigger than Gibraltar and results have been very promising. The highlight probably being the hosting of the 'B' group finals of the European Hockey Champions Cup when our representatives narrowly lost in the final. Funds were also provided for the refurbishment of the sports hall at John Mackintosh Hall which had been closed for a number of years. It is now in an excellent condition and it has been annexed to Bishop Fitzgerald School and very successfully included in the community use scheme. Major repairs and improvements were carried out to the three courts handed over to Government by the MOD behind St Joseph's School at South Barracks. At last it has been possible to make available a public facility for tennis, although the courts are also being used and have been equipped for other sports. These facilities are being used as well by the schools and the community. An increase in the use of sporting facilities available has recently been achieved by converting the old nortex hockey pitch at the stadium into a multi-purpose area. It is now being used extensively for cricket practice within newly built cricket nets, and the pitch for football by the Gibraltar Junior Football League, who previously required to rely more on MOD facilities. Works which commenced during the past financial year at Jumpers Bastion are expected to be completed in this coming one. The delay was due to the intervention of the Gibraltar Heritage Trust. But I am glad to say that the matter has now been resolved and the works should recommence shortly. Jumpers Bastion is being converted into a centre for associations where they may enjoy communal club facilities and office/administration space. This will enable Government to accommodate the needs of many sporting associations to manage their own facilities. I am therefore delighted to announce the first association to take up this challenge is the Gibraltar Squash Rackets Association. An agreement has been reached with this newly formed association, previously a club, for the handing over of the premises we acquired from the MOD, namely the squash court and racquets court at South Pavilion Road. The GSRA will be investing in the premises to provide more squash courts and club facilities for their members. As has been reported in the press recently, my hon Colleague, Mr Pilcher, having taken over certain areas of the DTI, has had meetings with GASA, but the reprovisioning of their premises and the construction of the pool by the developers, Gibraltar Homes, is a matter which is still pending. However, my Government is conscious of its commitment to ensure that the Island Games can be held in Gibraltar. I have already had meetings with the Island Games and I continue to be in close contact with them.

During 1993/94, Gibraltar will again be represented in many international sporting events amongst them the 1993 Island Games to be held in the Isle of Wight this coming July, where a large Gibraltar contingent will be present. The Sports Advisory Body has gone a long way to providing financial assistance. In the first half of 1994, two major international events are expected to be held in Gibraltar. The European Nations Cup Qualifying Tournament, with nine hockey nations (including Gibraltar). Another extremely important event is the European Standing Conference of the International Basketball Federation, when representatives from each European national basketball federations are expected to be present. It will be interesting to see whether a Spanish delegation will be coming over. Spain being the only country in the world, it seems, who doesn't recognise Gibraltar as a nation, in the area of sport, as in many others. All these events provide important exposure for Gibraltar and justify the investment and importance given to sport by the GSLP Government.

Finally, Mr Speaker, I would like to express publicly my most sincere thanks to those hard working and loyal members of my staff. Their dedication and support is second to none. I am so grateful to them for making my life so much easier.

HON P CUMMING:

Mr Speaker, in trying to prepare myself for this debate I have been enclosed in the GSD premises with all books and papers that I could lay my hands on and I thought I would start with reading last year's budget session in Hansard. As I was going through, my blood pressure was rising and my temples were throbbing. I was muttering under my breath every two minutes and finally after a couple of hours I had a headache which turned into a migraine and it was quarter to eleven at night and I thought I had better rush off to the pharmacy and get myself a migraine tablet. Of course all the pharmacies were shut and there was nothing in the windows to tell me where to go. That is funny, there is no pharmacy on call?" When I got home I was told it was seven minutes to nine o'clock and not nine minutes to 11 o'clock. Then it clicked in my mind because just a few days before that I had had a complaint from a constituent who had said that he had called the doctor at home after hours and he had refused to come because he said that in any case he would not be able to get any prescription and it did not impress me much. I thought I would have to look into this and maybe there was more about it but of course if at nine o'clock the doctor is called and then there is no pharmacy... Now I am told that perhaps someone is on call but I do not know and does the public know what the situation is in this

matter? I think it needs to be told. Last year I was camping in Spain nearby and I needed something from the pharmacy at night and I found that in La Linea a pharmacy is open all night and I think that health services must improve rather than go backwards. In this case I think it has gone backwards. With the question of prescriptions in my mind I was reminded of a question asked in this House last November by my hon Colleague Mr Vasquez who asked the following: "Is Government satisfied that it has in place satisfactory auditing procedures to prevent the abuse of medical prescriptions by dishonest individuals at the cost of the tax payer?" I do not think that my hon Colleague is going to invent questions from the top of his head without a reason for asking. The answer was: "Without knowing what the nature of the abuse of the prescriptions that the hon Member believes can be perpetrated by dishonest individuals, it is not possible to know whether the auditing procedures are satisfactory to discover the hypothetical abuse". This is the answer given here and it is typical of all the answers because when I started to read the hospital report from the General Manager.....

HON MISS M MONTEGRIFFO:

If the hon Member will give way, I did say at the time the question was made by the Hon Mr Vasquez, him being a lawyer, that if he had any evidence I would gladly look at the evidence and take whatever steps were necessary. I did say that at the time.

HON P CUMMING:

But the point is, Mr Speaker, that I am reading the General Manager's Report and Accounts from previous years without much hope. Really the General Manager's Report has been something like the annual report from the League of Friends, or something like that. So without much hope I was trying to do my homework like a good boy and hey presto what do I find? The Principal Auditor's Report which says in section 6: "At the time of audit the supporting documentation to the prescription payments, namely the prescriptions themselves, were not readily available for inspection, hence the payment which total £1.9 million could not be fully substantiated". The Minister for Medical Services had the audited accounts in her hand because they are dated 28 August and this question was asked in November. We did not receive it of course till much later but she knew that the Principal Auditor had said that the prescriptions had not been audited because he had not been able to audit them. How can she stand in this House and say, "I cannot say whether the auditing procedures are satisfactory"? She knew that they were not satisfactory because the Principal Auditor

had told her that it had not been audited, let alone audited satisfactorily. I am not suggesting that £1.9 million have gone missing because in that year people got their prescriptions from the Health Centre and they were available. But the fact of the matter remains that this is not money that we can just be casual about. The public's money has to be looked after much better than one's own money. Here we have an answer that has been recorded and it is simply not true to say that the auditing procedures are satisfactory. She could not know? She did know or maybe she had not read the Principal Auditor's Report which is practically worse or maybe it is that Ministers do not care about what the Principal Auditor says. In any case, this uninformative cover-up answer hiding information is something typical that runs through all the questions that are asked in this House about the Medical Department and are answered. For example, a question about the school "will the courses be acceptable for automatic registration?". "Yes, after this lot are done they will be automatic". In fact, there are not going to be any further courses until a date in the future. That was a cover-up of the situation. It was not a sharing of information and this Government will not give information about its finances and it will not give information about its ideas and its policies unless they are extracted painfully. I do not see any reason why this should be. If I employed a housekeeper to run my house for me, I would say to her "Look, this is the salary I am giving you, apart from that here is this amount of money to pay for running my house" and if I trusted that housekeeper later she could come to me to say she needed more because prices were going up, because there is recession, because this and that and I would give more but there would come a time maybe when it was so much money that I would say, "Look, now we have to look into it, we have to look at what you are spending, how much it costs, the prices of the things, so that we can really know where the money is". She would then say to me, "No, no, you have to trust me, or I will not be your housekeeper. I am prepared to discuss with you what I spend on cleaning gear to the last penny but for the rest you have to trust me". I think that if it was my wife I would put up with it without further question but if it was not, I would say to this housekeeper, "Out, out, out". The people of Gibraltar must say out to the GSLP because they are not looking after our money. Reading on in the Principal Auditor's Report, it says: "The absence of an internal audit function continues to represent a serious weakness in the financial control in the Health Authority". A serious weakness because there is no internal audit function so it means to say that at any one time there is not somebody in the hospital who is keeping track that the river runs in its course, that the money goes in the

courses that it is supposed to go and does not escape into alternative routes. A serious weakness! Another lady came to me in the GSD premises with her arteries pulsating out like this and she said she had just come from complaining to the Minister about an issue which was to do with an elderly relative who was apparently being put out into the street. The Minister had received her politely and kindly but what had angered her was a remark from the Minister who said that it was a professional matter whether the man was discharged or not; that she was looking after her money. The lady said, "You are looking after my money?" The bank looks after my money not you", all the way down to the GSD. I say to this House the Minister is not looking after our money in the hospital because there are very serious weaknesses in the financial control and we have it from an expert. I have to say to this House that my appetite was wetted. What is an auditor then because I am a one year member of this House? I am a layman who has no financial knowledge or background and when big heavy books are put here one groans inside if one is conscientious and thinks that one must make an effort to understand what is going on in the service that we try to give the public. The Chief Minister, in his New Year message, said that the restructuring of the finances is now in a much clearer shape and it is finished and this is so nice because now for the average citizen it is easier to understand. Looking through these books a citizen of average intelligence and access to people who can ask this one and ask that one..... This is a joke! This is a bluff by the Chief Minister. The average citizen is not going to get one of these books and try to understand it. I challenge the average citizen to try and work his way through the finances of this Government and say he understands them. We had Sir Joshua Hassan on the television the other day and they asked him, "Can we afford television or not?" He said he did not know because he did not understand the finances the way they were done now. We can say that because he is retired and does not want to become involved he might have said, "It is not that I do not understand them, they are not understandable", which is where we are getting to. The Housekeeper then says that she is going to explain every penny on the cleaning materials and the rest has to be left to trust. Obviously it cannot be quite like that because even though in this budget session we only see 60 per cent of the real money that passes through the Government hands, the rest of it eventually two years later comes through. As I say my interest is who this man is. A Government employee; a man so brave to say these things and he has not been put on a rocket to the moon yet. I have to study the matter more. My hon Colleagues who are more knowledgeable about these matters know all the background but I did not know until recently

that this is a statutory position. The man is put there by the Constitution and he is protected by the Constitution. He has rights of access to every Government financial books etc. He is to present annually his report to the Governor and the Governor has to lay it on the table presumably so that we can read it. If there is an alarm bell this is one of the checks and balances of the Constitution. The function of the Principal Auditor is I think wonderful. The Constitution in some aspects it appears can become rather elastic and in some aspects of the elasticity of the Constitution the Opposition welcomes because obviously in those areas where we are moving away from colonialism the Constitution has become elastic and we welcome it but the elasticity cannot extend to these matters. We accept elasticity for the sake of moving away from colonialism but not as a good reason for not looking after this money.

There is an item here which is £632,500 paid in overtime for the year ended March 1991. From personal experience, I am sure that the vast majority of this overtime is completely justified but it just seems to me that this is an awful lot of money and an awful lot of man hours. It occurred to me that this money could pay 60 enrolled nurses. A very useful grade in the hospital and it would be wonderful. Employing 60 new nurses would be an inflexible arrangement and an allowance for overtime makes it much more flexible. Nonetheless it seems to me that in view of the job shortage perhaps ten or twenty new nurses or whatever other grade are doing so much overtime, could be employed and then leave, say, half the money for overtime. This would spread jobs in the community which is something that we are anxious to do.

I just want to return to the question of auditing although it is not of course my subject and my hon Colleague the Leader of the Opposition has done it already brilliantly as the professional that he is in these matters. I only want to do it from the point of view of just a very quick excursion, a humble one, a low level one, just to rush through to see if from the point of view of the layman I can sort of take some simple idea from it that means something to the average man in the street. I am shocked at how much money is owed to the Government one year after the other and according to the Principal Auditor it is getting worse. Hopefully, this has changed since this is out of date now. Hopefully there has been some improvement. The Principal Auditor shows that year after year more and more money is owed to the Government. What can this be? The amount owed has only gone down in one area - income tax or something. But, he says the people who were employed to chase this up have been disbanded. It does not make sense to me.

The man in the street sees that millions and millions are owed to the Government and on top of that we disband people who were going to bring the money in. Then I find that the public sector companies owe this and owe that. Who are the public sector companies? Are these joint ventures? Are these mysterious private companies that the Government makes? They do not pay electricity and they do not pay for a course at the Education? Is it that they do not pay; they cannot pay? What is it all about? It is all a mystery; that part is a mystery. I cannot make any headway in that matter. In one place the Principal Auditor has been denied access. In another place, he has written five times to ask for information on a certain point and he still has not got it. He says that this is a matter of grave concern to him. I am not going to single out one department but it is department after department after department. I remember in the good old day of responsible management of money, being in charge of the hospital nursing school. The audit people were sent round and I was only temporarily in charge. They said, "You are only given £3,000 but what did you spend it on?" "On this, that and the other". "So you bought so many books?" "Yes, here is the list". They asked to be shown such and such encyclopaedia and it so happened that I had the book at home. They asked to be shown the library ledger where I put in who had each book. "Well, as it is me I have just taken it". They said everything had to be documented because I could be taking the books off. "We will fill in the library book so that everything is above board and the money that is spent on something is actually spent on that and it does not find its way anywhere else". In those days to be mentioned in the Principal Auditor's Report sent shivers down for tuppence ha'penny. It sent shivers down the spine of the people involved and it ensured an accountability of the people's money that they worked so hard to earn. This is a question of the political philosophy of the Government because I read also in the Hansard of last year where the Leader of the Opposition made so many comments about this and said, "You have sometimes very cumbersome structures. It may cost you a pound to save a penny". So we take a political position on this. But I say that if these are trickled of pennies escaping and we do not plug it they are going to start escaping somewhere else and the system of the finances of the Government is going to become as leaky as a sieve. I lose a few thousand pounds here and a few thousand pounds there. "Do not make a fuss about the ones I lose. I will not make a fuss about the ones you lose". This will not do. Later on the Chief Minister got a bit of aggravation with this. Now he says, "It is not good telling us. What do we care if it is within the law or not. We just go and change the law but of course this is the Constitution. We cannot change the Constitution at

the drop of a hat. I always used to find when I was working in the hospital as a tutor that the many medical matters were out of my grasp and I would also try and pick the brains of the doctors to learn from them and I remember in particular the question of meningitis when in those days there were epidemics that kept happening, particularly amongst children. Reading one book and not getting to the bottom of the matter and asking one doctor and asking the other and I would ask, "Explain to me how it is that an epidemic occurs". "Oh, because the haemorphorus virus and the bla, bla, bla". My opinion is that this doctor does not know. Finally, I came across a doctor who said he did not know and he did not think that it was known; because the germ of meningitis everybody carries in their noses - nine-tenths of the population. So why is it that suddenly they are all going from the nose to the brain?" There is no explanation. This is a technique that I have perfected. Sometimes I know that I do not understand it because I am not clever enough but I always seem to know when I have taken the person who I am asking to the limit of his knowledge. In that case either he is honest and he says he does not know or he covers up with long words. I have been trying to get to the bottom of this. I think I owe it to the public who elected me. I know they were only 2,500 people but I owe it to them to make an effort to understand what goes on in this House. I do not claim to understand it all but it is interesting. What is this about private companies because we have heard of joint ventures? First we heard this one is for that and this one is for that. Now it seems that there are a big number of private companies 30 or 50, I do not know. So what do they do? Some of them have a specific function apparently and they have employees. What is the purpose of these companies? Is it to give employment? So why are they disbanding the collection unit in the Treasury? To save money? Then we are going to spend money giving I just do not understand it. A network of private companies and reading between the lines on what the Principal Auditor has said here that an exact valuation of what these companies own is very hard to arrive at. Inter-company transactions in order to fully account for them. Money is going from one company to the other. This reminds me of Robert Maxwell who was a financial giant, a wizard, he created a financial empire that allowed him to arrive in Moscow and President Gorbachev would bow to him and receive him and listen with bated breath to his advice and his explanations and he could go to the White House without an appointment. This was a wonderful thing that Britain produced. Money without end that he had created. Suddenly he is drowned in the sea and what a shame. This man was a genius and of course it so happens that the Chief Minister says that this was a great friend of his who was so interested in investing in

Gibraltar. I believe we had a narrow escape. But then when they start to investigate Robert Maxwell, I am afraid that the Chief Minister having so quickly claimed friendship with Robert Maxwell is left with egg on his face. It seems that after he may have drowned he may have had to drown himself because it had all been a gigantic bluff and he was broke. He was stealing the pensions of the poor workers. He was now desperate and he jumped into the sea and end it all. I say to this House that afterwards there was a great interest amongst intelligent people. How did the man do it because companies have to be audited according to the law? He must have had a certain genius after all. The result seems to be, if I understood it correctly, that the way that he did it, from reading in the UK press, was to have a very large network of private companies from which money was passed from one to the other with amazing speed like clothes in a tumble drier, round and round, until you lose them from sight. An auditor cannot say it was here yesterday, it will be there tomorrow and heaven knows where on earth it is. There is a network of private companies here in Gibraltar and the Chief Minister will not tell us what money is in them or why they exist or even their names. There can only be two things as far as I see. One is that it is all crackpot and the other one is that it is corrupt or both. Dreadful thing to say. Then the Chief Minister must stand up and say what all these companies are, where the money is and give us an explanation because democracy requires financial accountability.

I have here the interview given with Peter Brooke, in the Chronicle before he left, in which he made clear his professional obligations. Professionals have the code of ethics and being a professional has moral obligations. Being an employee has another set of moral obligations as one has to do what the employer says. I was the first of the employees to experience that when I had my own problems with the GSLP but I do not want to I do understand. There is an added problem of course I was a nursing professional but when it is a question of a financial professional we are in a slightly different situation because of course if a financial professional is seen to be acquiescing to a malpractice then he himself is tainted and he himself may find himself unemployable in that profession anywhere else. If someone is coming close to retirement and his future is linked with the GSLP then there is no problem. But somebody like Peter Brooke who was obviously on his way up could not But it is a dreadful thought to think that a professional employee of this Government may have to consider clearing off elsewhere because his association with the Government of Gibraltar may give him a bad reputation and make him unemployable elsewhere. Of

course, the present Financial and Development Secretary has come back making it absolutely clear that he is not responsible; he is an adviser. I think I have exhausted my points on audit which I have found interesting and this is the territory of the Leader of the Opposition and he has done it brilliantly at a level which I cannot achieve. I hope that the thoughts that came to me of my own personal study at a very low level of these audited accounts can be of some slight use to the average citizen in arriving at his own conclusion. The Gibraltar Investment Fund has already been mentioned by the Leader of the Opposition but it seems to me it is the gateway between fully administered Government revenues for which information is given not very well and late But it is the gateway from that situation into a complete Alice in Wonderland situation. If the average citizen is asked whether he is aware that the Government have a Gibraltar Investment Fund, he might say that he was not. Asked what he thought about it, he could say that the Government should have an investment fund. "So where do you think they should invest?" "I do not know, big conglomerates where the money could be safe". Of course it is invested in private companies of whom we know nothing but created for that purpose. Unlikely to give that a big dividend. I saw a figure in this book of Estimates which is £128 million liability of this fund and big shivers go up my spine as I think about it. The Hon Mr Perez has already said on this matter that of course the people will be the jury and indeed the people will be the jury. The people are saying in the street that they believe that the GSD brought this Russian eye clinic ship. We were the ones who organised bringing it to Gibraltar in order that the eyes of the people of Gibraltar should be opened to see what their Government is doing with the money. I want to return to the hospital and [Interruption] The world goes round in mysterious ways and very often comes back to the same place because on this same issue I can throw the ball back. I had intended not to mention this in my speech but now that this little provocation comes my way [Interruption] because whilst I was in the GSD premises studying in the late hours last year's budget Hansard, I did have a light moment and it was this. Page after page, I came across a page of the Chief Minister's own expostulations that were incoherent babblings and that was because yours truly had been making some comments before and of course it seems that there is nothing more likely to reduce the Chief Minister in this House to incoherence, which is quite an achievement, than when the Hon Peter Cumming talks especially about that one subject which is the Union and relations of Government and unions because this is of course where our own relationship came to grief. I was not going to mention it because let us not be soppy about it. I do not want him to be taken in

a stretcher in an apoplectic fit but this morning very early in the Chief Minister's speech my humbug detector was setting off big sirens and the red lights were flashing when the Chief Minister talked about the new employment forum he has achieved now that they are going to sit down with the Union and talk. It was too early and we were all zombies here and we missed the opportunity for a good laugh. I think that the Chief Minister when he was Branch Officer thought it was a great idea to kick the Government around so that Sir Joshua would be put in an awkward position and of course now the same thing has been done to him. The biter is bit, and as the Spaniard would say to his dog "abucha" he has had to "abucha" in this matter. Then he comes to say how nice of the employment forum. To me humbug and I cannot let it pass without mentioning it seeing that the Chief Minister has mentioned that I cannot return to the hospital in the sense that this was my punishment because he knew it was the one that would hurt. Heaven knows that it may just be in my destiny to return to the hospital maybe as the Minister, but one of the things that I was very interested in at the time that I was leaving was in fact the nursing audit. This was a system whereby one of the nursing professionals, either internally or externally, would come and study the nursing practice that was going on in a period of a day or a week and say, "This is what is actually being done. What is it ideally that could be done if we wanted to do it and if we had the resources? What are the ideal circumstances under which we would behave?" Then of course contrast one with the other in order to give the profession a new aspiration to improve. This is professional audit, which I believe is now common in all professions, so that all professions can keep on their toes. It seems a very good idea to me that there should be this professional audit and the future may make it possible.

To return to the hospital in the sense of my speech, I asked a question in the last House to the Minister about the RNH which was: "Does the forthcoming closure of the RNH have any implications for the Health Authority?" Of course, the Minister answered in her own usual style with the political philosophy of the GSLP behind it. "It is not possible to quantify the implications of this" but the point was that they were closing the RNH; that there is no private hospital unless it is in the future for 1994. There does not seem to be a private hospital where they can send their patients. Obviously they can put their patients on a plane to go but the thing is that the Services here would want to make use of the hospital. "It is impossible to quantify". No, if we ask how many people are there? What work is the RNH doing at present? How many appendisectomy operations are done? How many

babies are being born? It is very easy to quantify. There will not be a geriatric problem because they are all young. What services will they want to use? They will want to use the expensive ones that they themselves cannot easily produce here and that is the operating theatre, the X-rays and maternity. These are the areas which are chock-a-block already. The theatre works at 100 per cent capacity and there is no equipment storage place. It is all in a cubby hole. If we add to that the 10 per cent that it is claimed will be needed, it just will not function so more space is needed. It is true that the Government have spent money refurbishing the hospital and I must say that from my time there it has improved. I welcome these improvements. It is easier to get equipment when you need it. More money is spent on the hospital than it was and this is good but however much we refurbish we need to put a couple of more floors as the basic need is for space. In my question I asked about the desirability of an orthopaedic ward and again in the Minister's inimitable style she said this was not particularly desirable because she had asked the Health Authority but she would not tell me who this Health Authority was or when they had met because the Health Authority in her mind means something different to the Health Authority in my mind. There is no way that one could get the surgeons together and ask if they thought it a good idea to have an orthopaedic ward? Of course, they would for very good professional reasons. The female surgical ward is absolutely chock-a-block. The staff there go crazy because the consultant's round is a high point in the ward manager's day. A lot of work is involved in organising it because all the tests and all the results have to be available and understood and a report has to be made. How many consultants are dealing with Godley Ward? Four or five? They are crazy there coming and going, trying to sort themselves out because so many different specialities are all lumped together. we call it female surgical which does not happen anywhere else. The reasons behind the surgical ward professionally are absolutely watertight and absolutely imperative. I am not going to bore the House with going into them but they are there. We need an orthopaedic ward; we need more side rooms for people who need to be isolated for any reason; we need waiting areas; we need more space. We have said before that a new hospital is needed. This was the medical review from UK opinion. It was the Minister's opinion when she was in Opposition and it remains my position. Government have just spent millions of pounds in refurbishment and we must make use of it and it has improved but some money should be put aside for the future. We have to take this opportunity where the UK Government wants to share our resources in order to make a jump forward. We have in the past flown the idea of asking for UK aid to get a new hospital. Now

is an opportunity to push that idea forward. This is not big enough for us, let alone for them. Let us, together, put up a new hospital. At very least it must represent an opportunity for a big step forward for our orthopaedic ward, for greatly enlarged theatres and of course for the basic improvement of the geriatric services which are the ones that are crying out for improvement. I asked also in the last House whether the Minister was satisfied with the number of geriatric beds and to my amazement she was satisfied. I must rephrase those questions in the future because it is too easy to say "Yes, I am satisfied with the geriatric provisions". The statistics of Gibraltar show that in 1970 there were 339 persons aged 80 or over and ten years later, it was 460, an increase of 121. In 1991, ten years later, 764, it is an increase of 304 from the previous decade. So in 30 years there are more than double the number of people who are 80 or over and this is consistent from the 1950's onwards. In civilised countries where medical services and the standard of living is high this is reflected everywhere and this is very good and very right and proper and most welcome. It means that we can look forward, if the standard of living in our community remains high, when we are 60, when we are 70, and even when we are 80, to be healthy, useful and competent citizens. It is a wonderful thing that we have, as a community, achieved over the years; that there is this great improvement to look forward to but once one is well into one's 80s then of course there is a mass of people who are aged and in need of help. I know that there are units in the Gib 5 specially designed and that is wonderful but it is not really going to solve the problem because the major problem in Gibraltar is not the people who can fend for themselves in a bottom flat on their own but it is people who need intensive nursing care. There are many of them. I can assure the House that in the hospital there are not enough geriatric beds. The problem keeps coming up and I am very, very glad that the Minister, in the last occasion that I had to call her on frantic relatives having an elderly patient hoisted on them against their will, undertook to me that no patient would be put out on those circumstances from the hospital. One thing was to discharge them from the care of the consultant and the other thing is to put out a patient who is 85 and who is not capable of looking after himself. Should we as a community say that the family must look after their elderly? Advanced communities are facing this problem of increased numbers of 80 years old who have to be looked after and different countries are arriving at different solutions. We are a caring community and loving parents have loving children and those children look after their parents but we do not know the circumstances of each home and if a son cannot take responsibility for looking after his elderly father then we have to respect the conclusion that he has

arrived at because we are in no position to judge the relationship one between the other. In any case the recent cases that I have had to deal with were nephews and nieces and we cannot say that they must open their homes to these elderly persons who happen to be their uncle or their aunt with a urinary catheter, immobile and incontinent in a small house where they have children and babies. It is too much to ask. It cannot be done. We are talking about people who after a stroke, after an illness are now immobile and cannot fend for themselves. They need more than the District Nurse popping in now and again. There is intensive nursing care and the pressure now is more and more because by no means has the increase in Lewis Stagnetto in 1975 of 15 beds which this is the only increase I think in living memory of the geriatric provision in the hospital, compensated for the increased number of elderlies. So we are building up here a huge problem, relative to the care of the elderly in Gibraltar. The sooner we deal with it the less huge it is going to become.

This brings us to the question of Mount Alvernia and the situation that they are in. Very soon they will again be eating their capital. The new provision that has come from the Mackintosh Estate recently, that looked after Mr Mackintosh's daughter, and some other monies from the Trust that were passed over is the very last money that is going to come from Mackintosh to Mount Alvernia. We have now to look elsewhere. So what is the position then of the Governors of Mount Alvernia? How do they see it? Well, apparently it seems to me from what I have managed to glean, that really of course they were thinking big; all this lovely big building. Really what we need is a smaller building. Obviously to live within their means and it is a private home and they can spend what they have got. That would be the situation that if they had a smaller place, smaller amount of staff and taking on a smaller amount of people and that is fine because they are private and we cannot interfere. The Government in the past have been subsidising in order to keep it going at its present level in order not to aggravate the already serious problem of geriatric care. The situation is now where something has to be done and I am not saying that I have the answer. The Gibraltar Investment Fund instead of investing where it does it might invest in a capital injection that would set Mount Alvernia free for the next fifty years. I have disagreed like my hon Colleague Mr Corby has disagreed with the Deputy Governor on the issue of Mount Alvernia. I hasten to add I have had very few contacts with the Deputy Governor. There is nothing personal in what I am going to say. His interpretation of this money that came from Mackintosh guaranteeing Mount Alvernia well into the mid-term future was on further questioning something like four years. It

was totally unacceptable to my hon Colleague when he was on television on this matter. I find it shocking to think that that could be said. I do not think that a Minister would say it not because he is callous or does not care. In the days when John Mackintosh was alive and he was leaving his fortune for this wonderful project and

decided on who would be the Board of Governors he wanted people who were able to protect Mount Alvernia, people who would be independent and who would be caring and he chose the people that he did. But in choosing the chairman of the board he chose the Colonial Secretary and that post eventually evolved into the post of Deputy Governor but it is a different creature altogether. The Deputy Governor today is nothing like the towering figure of the Colonial Secretary in the days when John Mackintosh was alive. This is a private business to do with the Trust nevertheless we are involved because monies from the Government goes to Mount Alvernia. I do not think that this is a suitable arrangement any longer. My feeling is the Deputy Governor is not free; he is caught in between; he is not independent of the Government; he cannot take an independent view. He cannot say this is what we want for Mount Alvernia under his Mount Alvernia hat and then say that working for the Government he cannot say things like this and that. So it is no longer the same chairmanship of the Board that there was in the times of the Colonial Secretary. I would have thought that a change could be made. There are two ways that this could go. Somebody absolutely private and independent or going to the other extreme and say, for example, the Minister for Medical Services. This would put Mount Alvernia under her wing. It would still be private but she would then have to do a balancing act between the needs of the geriatric wing in the hospital and in Mount Alvernia and she would be much more inclined to open the purse of the Government to Mount Alvernia.

The School of Nursing; I also asked some questions about intake of students and the answer was that for the moment there is no intake of students planned because the school has other work to do and this will be delayed until..... It is quite clear how many jobs are needed and of course there is a certain sense in that. But of course as long as I remember the administration of the hospital has been saying, "With this intake of staff nurses we have to cut down because we are going to be flooded". In fact it is not up till now that this has actually happened and this is for two reasons. One because of the unemployment problem and two because of the changes in the Health Authority, people have realised that there is a need to catch the last bus now. So everybody who remotely thought that one day they would, decided to become and suddenly the number of staff nurses were greatly

increased. It seems to me that we are facing a problem of unemployment and it is very heartbreaking. This is not now a political thing that the Government are going to do it better and there is nothing inbetween as this is for all of us the same that young people from the age of 15 and 16 are unemployed and maybe if their educational background is not all that good, by the time they are 20 they have been five years without a job, they are becoming increasingly unemployable and their character formation has suffered in a way that is going to mark them for life. It may be that we would have to think that it would be better - talking about the School of Nursing or in other areas where training can be undertaken exactly the same - to train young people for life and for employment. It seems to me, that it would be better to take in 12 students a year into the School of Nursing on a three or three and a half year course so that they could have some experience in the hospital fully trained on a four-year contract to say, "We are going to train you. These are the conditions that you come in to training and the contract is for four years and after that you are not employed any longer in hospital. You may of course when there are vacancies be in a position to apply and you will be given a certain priority if your record is good". I agree that one would have to be reminding them on a daily basis that they were not secure in the hospital but at least they would end up at the age of 22 with a professional training, with an experience of life, with a character formation, with even a management ability that even if they are then put on to the unemployment dole and remain there for the rest of their lives, still their quality of life had been improved by what they had experienced in the hospital. And so with the training centre that is apparently going to be built and once again I am reminded of the GSL Training Centre which produced welders, plumbers and builders and which the Chief Minister, when he was Branch Officer a few weeks before the election, said when Mr Canepa was threatening with closing it, "This training centre will close over my dead body". Of course he may have been referring to the dead body of the Branch Officer and not of the Chief Minister because weeks after he closed it with his living body and now he is thinking of opening another one.

HON CHIEF MINISTER:

Mr Speaker, I do not want to interrupt the hon Member but he is talking complete nonsense. I have never said "The GSL Training Centre will close over my dead body". He does not know what he is talking about. The GSL Training Centre was transferred to the Government in 1987 before we were elected into office and all the people who were formerly in the GSL Training Centre are now in the

Employment and Training Unit and as civil servants. He has not got a clue what he is talking about.

HON P CUMMING:

It so happened that when I was in exile in the Government corridors I worked with the ex-instructors in GSL who were union members and who had great contact and knew what was going on and this is a story from them. Of course if it is mistaken then I withdraw it because it is not true. It was certainly the attitude that their jobs should be protected. It is not just a question of protecting their jobs because their jobs actually were protected by his functions as Branch Officer but it was done in a way that closed the Training Centre.

HON J C PEREZ:

But they are still in employment. Their jobs are protected.

HON P CUMMING:

I am talking about the need for a Training Centre. I am saying that if we train a carpenter or a plumber and when he is fully trained he is kicked out into the hard, cold world, at least he has got something to defend himself with. He is a mechanic and he can go making employment for himself here and there and he is in a better position than somebody who has been unemployed from the age of 16 and that age they become rapidly unemployable. I speak with a certain knowledge and experience that the Government have imposed on me by the time that I was kicking my heels at the beginning of the Vocational Training Centre and which had a certain merit, I agree. But on its own it is not enough.

Mr Speaker, I want to talk about a health problem which is smoking. Smoking is a habit. Statistics show that it is the largest preventable cause of illness certainly in the UK and we all know that it causes lung cancer and that it causes chronic bronchitis. It is less clearly known that it also causes heart attacks, strokes, poor circulation to the legs and feet, needing amputations. This is really a health problem and I know that the Environmental Health Officers do plan courses on behalf of the Government, and this is good; excellent. I will just mention in passing that I believe also advertising should be banned round the lines of the UK to protect the health of our people. Another point that aggravates the smoking problem in Gibraltar and, of course, it is the price of cigarettes. Prices are cheaper in Gibraltar and amongst the cheapest in Europe and this has been identified by researchers as being one of the aggravating

factors of why people smoke. Therefore, for health reasons, the price of cigarettes should be put up. This fits in with the other great problem that Gibraltar faces and it is to do with the fast launches and the smuggling because if the gap is narrowed too greatly then of course that would put paid to the business and I am not suggesting that suddenly the price should go from 50p to £2.50. I am not suggesting that but the price of cigarettes is related to the incidence of smoking and this is a serious problem. The fast launch activity is bringing Gibraltar into international disrepute, or has already done so, and we have to make some changes in that area and I would suggest that if the tax on that was put up it would discourage smoking and equally it would lower the motivation for young people to take to the fast launch activity. I know many young people that are involved in this and many of them are my friends and I do not condemn them for what they do because at that age, I myself would have found it a most attractive occupation because it is exciting, it is stimulating, it is dangerous and, of course, it is profitable. I do not condemn them; what I condemn is a Government that pay lip service in that direction and do not do their utmost to bring this to a stop particularly because the police inform us that about 40 per cent of the tobacco smuggling is combined with drugs smuggling and therefore it becomes a vital issue, in which lip service is no longer any good and real action needs to be taken. The police have recently been requesting legislation and I simply want to say that if the Government is interested only in lip service then it will not bring forward that legislation. If they want to do something about it they will bring it forward and not just bring it forward but then encourage, give resources, stimulate and demand that these laws be now effectively put into place. There is no point in bringing a law that then just stays in the statute book and nothing is being done about it because I believe that if one has a launch it has to be registered in the Port. I am not absolutely certain about that but I believe so and in the Chronicle today we read that there is one registered.

The Chief Minister mentioned in his speech that the Minister for Education had the word "Culture" removed from his title not because there were any changes but because it was too long. Nonetheless I think that the question of culture is a very important one and I think it is attended to by the Minister relatively well and this is a very important aspect particularly the youth exchange cultural organisations which help young people to see how they live over there and then see how we live over here. I think it serves a very important function because very often what we do not understand is that their culture is very different to ours and our culture

is very different to theirs and it gets us sometimes into trouble one with the other. Very often Spaniards come to Gibraltar and they do not understand us and sometimes we do not understand them. For example, in the shops; Spanish ladies in the shops see three soaps in one packet and she makes a nuisance of herself wanting to buy one piece of soap and the sales person in the shop says "For heaven's sake". And we say, "How demanding they are", but when we go over there to shop, the shop assistant, because of her cultural background, goes out of her way completely to give a service that our cultural background does not allow us to give here. We expect differently. We expect to go into a shop and to be polite and to be not demanding and to accept what we are given with not much complaint. In that way we are a little bit English in being polite and in being more disciplined than they are. They say for example, "Come to my house on Sunday we shall have a paella" and it is not the same thing when an Englishman says it because when you turn up, they did not mean it quite like that. They meant to be nice but they did not mean it that way. They see us as a disciplined sort of English community. Our culture is very different and therefore cultural exchanges will help us to understand each other and I think that is a very good thing.

On the question of the garage and the new method of funding it that the Chief Minister explained, that may be a very good idea. We would not want Ministers to be fighting each other over whose van was fixed first. I understand that Ministers are very jealous of who works for who. "These are my people and these are your people and you leave my people alone". If I happen to be the Hon Mr Pilcher's man because I am employed in this department and right over here there is a typist but she belongs to the Hon Mr Feetham I cannot tell her "Type my papers" "Oh, no, you are Mr Pilcher's so go to the seventh floor where the other typist works". We do not want the Ministers coming to blows with each other because one van and not the other is fixed. This is also an opportunity for complaints from the Principal Auditor to say "Now that they are not debited to the different departments it is very difficult to make an audit of how..... I do not know, a long list of people may be having their cars fixed there at public expense". So there is internal audit as well as external audit.

Finally my last comment on the Chief Minister's speech when he said that we were bankrupt of ideas and policies and this is simply not true. I just want to say, Mr Speaker, that even if it was true and our only policy were to do some of the things that the Leader of the Opposition has been saying. That is to say, to sanitise the position of Government money, that would justify our

election to Government in order to clean up Gibraltar's reputation and to clean up the way the people's money is looked after. Thank you, Mr Speaker.

HON CHIEF MINISTER:

If the hon Member would give way, let me say that I could not possibly have said what he claims because I spoke first.

HON P CUMMING:

I am sorry, yes, it was the Hon J C Perez who said that.

HON J MOSS:

Mr Speaker, the first thing I was going to do was comment on some of the things which the Hon Mr Cumming had said but unfortunately he has disarmed me completely by showering me with compliments on my success in fostering cultural activities in Gibraltar. The only thing I would say is that perhaps if he goes into Government at any point in the future then he can always use the two bars of soap left behind by the Spanish lady to clean up Gibraltar. I am pleased at the fact that there have not been significant changes in the responsibilities allocated to me but of course having lost the title of culture, as the Hon Mr Cumming put it, does not mean that I will no longer be carrying out those functions. The House and the general public is aware that we still continue to give a certain amount of importance to this. I will break with my own personal convention of the last five years by actually first commenting on culture and then moving on to other matters.

Clearly there is very little that needs to be done in terms of new things in culture to improve the result with what we have available because if the Opposition is praising the Government then clearly we must be getting something right. I would like to highlight a couple of special events which will be happening this year which I think are worthy of the House's attention. The first of this is the fact that this year will see the 50th Anniversary of the Drama Festival and it is an event which is worth highlighting because it is one of the few events in cultural terms that has got an extremely long tradition. When it was passed on to the Government by the Ministry of Defence it did not die out; many people expected this to happen, if anything what has happened is that the event has flourished and we have seen more and more local people participating in it. A second event which I feel is worthy of mention is something which we have had discussions on for organising for this year and that is a festival of European Youth Orchestras. This

would be bringing to Gibraltar youth orchestras from the United Kingdom, Hungary, Denmark and France and all things being equal we should have 250 musicians from these four countries visiting us towards the end of July or the beginning of August.

If I may move on to youth affairs, because I feel that the next comment is related in fact, one of the things which we have been closely monitoring for the past year has been the system of youth exchanges, to which the Leader of the Opposition referred, particularly the different exchanges which we have participated in with some of our friends from over the border. This is one area where there appears to be little contention although, of course, we do not know what will happen in a couple of weeks' time because there is an election not a million miles from here which could perhaps result in the thaw which has existed in those particular areas becoming frozen once more. In respect of youth affairs I would also point out to the House that the commitment which was given to expand the facilities at the Youth Centre will be honoured this year and we expect to see the new building up in the next few months, in time for the new intake of members towards the autumn. I would also like to highlight the fact that the system of youth grants continues to be in operation very successfully indeed mainly because the resources that are devoted to this are fairly substantial and are achieving considerable results.

If I may turn on to education, one of the biggest headaches we have at the moment is the problem of demographic movement within Gibraltar. Clearly we have schools that have gradually become better and better facilities as the Government's programme of refurbishment, which was started in 1988, reaches its natural conclusion with of course the new school at South Barracks, for example, being built as well and being equipped to a very high standard. The problem that we have now is that there is considerable movement within Gibraltar and we are really talking about redefining catchment areas completely because we are talking of a whole new ball game. Catchment areas were last redefined in 1987/88 and clearly the picture of where people live in Gibraltar has changed radically since then and will continue to change within the next year. We anticipate more changes. What this means, in essence, is that we have to look very seriously at the human and physical resources which we have within the Department of Education and ensure that they are actually deployed in the areas where we have most need. I do not think it is any secret that there has been a large exodus of people towards the Westside reclamation area and that is going to mean that St Paul's First School, for example, is

going to need more resources. I have been pointing out in the House for the last four or five years that we are not talking about new children. We are talking about children that would be moving from other areas in Gibraltar so it will be that certain schools in Gibraltar will grow and certain schools in Gibraltar will decline at least for the next few years and what we have to ensure is that the buildings which we do have available have resources which try and match as closely as possible the requirements of the area. I say, as closely as possible, because I have already indicated in different discussions within my Department that I would find it inconceivable to have a kind of super school at first school level attended by 1200 to 1400 children whereas all the other school buildings at this level were lying half empty. This is why I place great importance in the exercise of redefining catchment areas.

In terms of the scholarship system, this has continued to yield an increasing number of students going off to UK although it is my own estimation that we have now more or less reached the peak and that the numbers that we can expect in the future will more or less tally with the number of students that we will have this year in total terms. There have been criticisms and mentions in the press of the offer which we made to young people in 1988 and the way in which we increased the number of students. That was done by relaxing the scholarship regulations by amending the Education Ordinance to give people more opportunities. I refer to it because recently we have heard, for example, of the problem of unemployed graduates which was not something which we had had in Gibraltar before. Obviously not, because we had so few graduates and because so many of them stayed in UK or went off to live in other countries. I hope that no one is suggesting that we should either go back to introducing a restrictive system or that we should, in any way, stop young people from having the opportunity of becoming better qualified and of furthering their careers in life. If that means that we may, on odd occasions, have graduates who are unemployed then that is the price which has to be paid for opening up so many opportunities. We do try via our careers advisers in the schools to ensure that young people are aware of the employment opportunities which exist in the fields in which they wish to further themselves. This, naturally, does not prevent students who have got ambitions in areas for which Gibraltar can never hope to create employment, from following their vocation and from obtaining a degree in their chosen subject. What we cannot have, of course, is that because somebody chooses to study astrophysics, is a demand on whatever Government is in power to then build an observatory within two years when the person has become qualified. I do not think that anybody would be

suggesting anything like that. I thought it was a point worthwhile mentioning because in UK we hear of more and more restrictions on students. In Gibraltar we open more and more doors and whilst I do not expect everyone to be satisfied all of the time I think we should be very conscious of the great achievement which we have made in education and of the high priority which is given to education by the Government. If there is one figure which is highly indicative of this it is, in fact, the total amount of money which is expended on education which I am now pleased to say is by far the biggest spending department in the Government. I hope that does not mean that there is more inefficiency in the Education Department and that money is not being accounted for.

One area that we have felt it prudent to initiate moves as well has been in terms of the regulation of nurseries. The House is well aware that the Government has got two nurseries and that there are no plans for those to expand in anyway but that does not mean that we do not have a concern about the nursery education which children have in Gibraltar whether that may be in Government or in private nurseries. In an initiative which we have taken together with the Gibraltar Teachers Association and the newly-formed Gibraltar Nursery Schools Association, we are seeking ways of finding a suitable wording to ensure that the rights of parents and children are protected in that they should be able to know what it is they are getting when they put their child into a nursery. If some place is calling itself a nursery school then it should meet certain minimum educational criteria and not merely the fact that it has got one adult per 15 children or that the Fire Brigade and the Environmental Health Department have given it the OK. The importance about this initiative is that what we are doing in a sense is helping the nurseries to regulate themselves. We are not dragooning anybody into this. We are not force-feeding them into doing anything but we feel that at the end of this exercise we should have something in place which will be for the benefit of nursery education in Gibraltar and which will mean that by the time the children do get into our Government schools they will have been better prepared for them.

A point which I would like to mention as well is the fact that in the Education Department we have continued to have extremely encouraging examination results and again I would ascribe this not just to the professionalism of our teachers but also to the level of resources which our schools have which is, in my view, second to none. Certainly in so far as being able to gauge from what the United Kingdom peers would have.

A final point on the Education Department which begins to impinge on my responsibilities in training which, even though the potential title has been dropped, still remain is, of course, the College of Further Education. That really has always had responsibility for training the middle tier of technicians etc. in our economy. We now have a record number of full-time students. The turnaround which we predicated would happen in the last three years from purely engineering, ship building and ship repairing courses to more business-orientated courses has now practically been completed. We should be able to substantially enhance the courses on offer by virtue of our recent franchising to Wigan College of Further Education which will mean that we will be able to draw on their expertise not just to offer the BITTA courses which are included within this franchise agreement but also possibly to begin to offer higher facilities from Gibraltar in conjunction with Wigan College of Further Education. We have also been receiving a number of proposals from interested parties who are very much aware of the Rock's growing reputation in financial terms and who wish to offer MBA's in Gibraltar and from Gibraltar. Needless to say, this is an area which we are considering but to which we are very cautious of lending the good name of the Government and of our Education Department to persons of whom we are not absolutely sure. We would only proceed in offering higher qualifications at this level if we were absolutely convinced that the organisation interested in offering them in conjunction with the College was completely bona fide and that we felt it was something of benefit to Gibraltar.

I would like to turn on to my responsibilities in employment which, obviously, take up a very substantial part of my time at this particular stage. In view of the many press commentaries recently on issues of unemployment, I think it is worthwhile going back to the very reason why the Employment and Training Board was created. It was created precisely to deal with the problem of unemployment in Gibraltar because the statistics already showed that there was an increasing number of jobs being created on the local market which were not going to Gibraltarians, with the obvious consequences which we are now seeing. There have been a number of criticisms recently which I think is worthwhile discussing. The question of how persons are sent from the Job Centre to different vacancies is something which has come in for a certain amount of criticism. I think it is very important to stress that the Job Centre is not an employment agency. When we are accused of selecting persons for certain jobs or choosing people if the face fits, there is only one answer to that and that is that it is absolute nonsense. The most that we can do at the

Job Centre is to attempt to match people with the necessary skills to the job title that is sent to us when a vacancy is registered with the Employment and Training Board. Let me say that the fact that vacancies are registered with the Employment and Training Board is the single factor which has actually kept Gibraltarian unemployment down because we hear of the failures; we hear of the people who complain about the service they may or may not have received at the Job Centre. What we very often do not hear about is the number of people who have been successful because they will not make a rumpus or they will not rumpus the Opposition or they will not rumpus the press. The number of Gibraltarians that we have employed through the Job Centre of the Employment and Training Board since its opening is now in the region of 2,000. Out of those, the number that have been employed in this calendar year is 477. We are talking about Gibraltarians and we are talking of a very great percentage of those 477 getting their jobs thanks to the Employment and Training Board. It seems to me that either a lot of faces need to be fitted or we are actually offering a genuine service which is more successful in some cases than others but it is certainly a service which is offered in good faith and which when it was introduced was something completely new. I certainly do not wish to get involved in a controversy with the Opposition on this matter because I think that if we cannot reach a consensus in Gibraltar on unemployment and how to deal with it, I do not think we can reach a consensus on anything. It is quite clearly the most serious problem that faces us at the moment and certainly not an area where I would be inclined to score political points. I say this because of just one comment from the Opposition which I felt was unjustified and that was the secrecy with which the Job Centre works. I invited the Opposition spokesman on this issue on three separate occasions to visit the Job Centre so that I could explain to him.....

[HON LT COL E M BRITTO: I can only recall one Mr Speaker which was as a result of a question in the House.]

I can remind the hon Member of the other two occasions. On one occasion as we were leaving the House of Assembly I called across the floor and asked "When are you going to come to the Job Centre?" and on the third occasion we were having a discussion on unemployment and on Gibraltar's problems and his hon Colleague Mr Vasquez was present and I reminded the hon Member that he had an open invitation to visit me.

[HON LT COL E M BRITTO: We are obviously talking about two reminders of the same invitation, rather than three different invitations. It is a technicality.]

I will either offer a fourth invitation or a third reminder to my first invitation; perfectly welcome to come down and then he will see that there is no secrecy and that there is no face-fitting. If solving the unemployment problem can be equated to eating humbug then I will very gladly eat humbug but the creation of the employment forum is not, I feel, eating humbug. It could well be the beginning of a genuine partnership between Government, unions and employers to try and find solutions to the problem of unemployment because it is very easy to say one thing in public and then to do another thing in private. Regrettably, push as we may Gibraltarians towards getting certain vacancies, the employers certainly have got a very important role to play. By now everybody should be aware of the employment requirements in Gibraltar. At least businesses in the private sector should be aware of this and if there are particular problems then I do not think anybody is suggesting that we wish to be draconian about this or anything, we should address these and perhaps the employment forum will be the right body where we can do this and if we work together we can achieve results. I can say that there is no way we can solve the unemployment problem on our own even if we have all the vacancies, if employers are not willing to give Gibraltarians a chance, if Gibraltarians are not willing to give the employers a chance and if we do not have the necessary match between skills and vacancies and that is, of course, our job to get right; getting advice from the correct quarters. This is what we will certainly endeavour to do at the employment forum, we will try and forget old scores and we will certainly go into that as a Government with a spirit of finding results and not of pointing fingers at anyone or of saying that we have got it right, and others have got it wrong or whatever. This, of course, leads me to the training consultative committee which is an integral part of those proposals although I envisage this as being perhaps a sub-committee working within the forum which can co-opt different persons from different industries, unions, etc. I would not like the House and I would not like people of Gibraltar to think that nothing has been done on training for the last five years. Quite frankly, apart from anything else, it would be totally incorrect. It is a well known fact that the Vocational Cadet Scheme started off initially as an employment scheme and we made no secrets of that because the important thing was to get young people into jobs where they had not been given a chance to take up jobs before. It was not a traditional area of Gibraltarian employment. The measure of the number of people we actually employed through the Cadet Scheme is a measure of that success but we never expected

it to stop at that and we did not let it stop at that. The Leader of the Opposition himself mentioned a couple of areas in which there had been off-the-job training as well to the young cadets getting a scheme. We are actually talking by now of 13 different areas that have had 501 different people going to the courses for meaningful qualifications. Training is one of those areas where one can never do enough but certainly what one has to do as well is to give credit for what has already been achieved. The Apprentices Training Centre, as it was incorrectly named in the Gibraltar Chronicle this morning, has always been on the cards. It has not happened as a result of a meeting last week where we miraculously decided to build one. It is about 70 per cent built so we always foresaw there being a requirement for us to have an area where we could begin to train tradesmen, not necessarily in Gibraltarian's traditional trades but in the areas, some of which may be Gibraltar's traditional trades, where we can see that there are employment prospects for the future. If we have managed to train 500 people since 1990 without a training centre then perhaps the target of 150 that we have set ourselves may even be a modest one. Time will tell and I am sure that from September or October onwards we will have an extra tool to combat unemployment. I think we should, at this stage, consider that the employment opportunities in Gibraltar are very often very small in different areas. It is a very costly exercise to mount a training course for perhaps for two or three individuals but it is certainly a requirement which we will be looking at because two or three jobs here and there can add up to a lot of jobs and if we abandon certain trade towards foreigners then we will never make an inroad on them because if we say that because there is only one vacancy we are not going to train anyone then we will never be able to employ anyone in that field. We certainly see ourselves as having done a fair amount of work towards training in the last three years. We will attempt to improve on this, certainly in terms of the numbers of trainees and certainly in terms of the qualifications which are achieved, not so much because we are concerned with the transferable bit but because we are concerned at the fact that in some of our trades our tradesmen are getting old. We will need to replace them even if it is in the private sector because the training courses we are talking about is the private sector which is where our jobs have been created. I give way to the hon Member.

HON LT COL E M BRITTO:

I thank the Minister for giving way. Could he tell us where the training centre is going to be located, Mr Speaker?

HON J MOSS:

The training centre is located within the Europa Business Centre in the New Harbours area. I think that really is the essence of what I have to say on employment. Clearly, the situation in Gibraltar has been better in other times but we are committed towards giving priority to the area of employment. It was one of our manifesto commitments and it is certainly one of the areas which we take most seriously. There is something which I should have mentioned. The Chief Minister did mention that I was going to give some clarification about one particular method of assisting the long-term unemployed which is one of the points of agreement which I reached in my recent meeting with representatives from the Transport and General Workers' Union. We are concerned that we should not be creating a sub-culture in Gibraltar of long-term unemployed. It has never existed except for people who do not wish to be employed and regrettably there are still a number of those around, perhaps more than hon Members may think. But what we do not want is the situation where somebody is willing to go into the world of work, especially somebody who may have had social problems of one kind or another and that that person finds it difficult to get a job because an employer naturally feels certain reservations about taking on someone who has not been employed for two or three years. What we have done, with some assistance from the European Social Fund, is create a 'Return to Work Scheme'. This scheme is in operation for persons who have been unemployed for more than one year. We try and use the incentive which is given to us by the European Social Fund of a weight subsidy to persuade employers that they should give this person another chance and it has been working reasonably well even though we are still very much at the pilot stage. We have scored some modest successes, perhaps we ourselves are to blame very often for not making more of the successes which we do have. It is a scheme which I hope will assist greatly in preventing the spectre of long-term unemployment of actually entering Gibraltar. To conclude, Mr Speaker, we will give all the resources that are required into employment to ensure that we meet our commitments and this we hope will mean that the problem does not grow and that we can in fact make inroads on it. I genuinely hope that this, at least, is one area where we can all work together because, frankly, unemployment cannot be solved by a press release. It cannot be solved by an editorial in a newspaper, regrettably it requires constant attention, 24 hours a day by dedicated people doing their best to find employment for those who are unemployed. Thank you, Mr Speaker.

HON L FRANCIS:

Mr Speaker, the Minister for Education said, education is now the largest spending item left in the Estimates at well over £10 million and without intentionally keeping praise on him there is a relatively good record in the area of education. We have new schools and the point system has been abolished etc. which has given rise to this problem of graduate unemployment to which he referred and I agree with his comments entirely that everybody has a right to education and we just cannot provide the education for the people who can find a job when they come back. He also mentioned the question of demographics within Gibraltar and the fact that they are studying the changing of the catchment areas to suit the new demographic changes in Gibraltar with the new housing estates cropping up. The Opposition has raised in the past the question of demographics and whether resources were keeping up with the demographic changes. We have asked about the increase in children's numbers down in the Westside area and how that would affect St Paul's in particular and St Anne's. He has said that they are going to be looking into this and that more resources may be needed in that area which is a welcome statement on his part. We have also questioned whether expenditure is kept up with inflation in other areas. Within this, we have brought up the question of pupil to teacher ratios before in the House. As I said, there is a relatively good record in this area but not a perfect one, of course. We have now received reliable information regarding pupil to teacher ratio at one of our schools which has given some cause for concern to the Opposition. The information relates to Bayside Comprehensive and therefore cannot be affected by the demographic changes as all the children in this age group attend Bayside Comprehensive. It is not done by catchment areas. I will just go through the figures the Opposition have received. The total number of pupils at the moment at Bayside, according to reliable sources, is 1,012. In 1986 it would appear that the number was 837 and this has been growing steadily over the years up to the number of 1,012 we now have. This represents a 21 per cent increase in the number of children attending Bayside. In the old sixth form which is now called year 12 and year 13, the increase is up by 62 per cent which is quite staggering and which of course related to the fact that the points system has disappeared and therefore more students are taking the opportunity of going on to further education and to study for their GCSE's etc. All this means that the pupil to teacher ratio has apparently deteriorated in Bayside from 13.4 in 1986 to 16.45 in 1992 and to compare it with the UK the average there is 15.85.....

HON J MOSS:

If the hon Member will give way. Certainly the issue of Bayside and of ratios I think is a bit too complicated to conduct a debate on at this point. I would just limit myself to saying that not all the information which has been passed to the hon Member is reliable and that the current pupil to teacher ratio at Bayside continues to be below the UK ratio.

HON L FRANCIS:

Does the Minister have the figure with him?

HON J MOSS:

I do not have the actual figure but I think we are talking in terms of 0.4 or 0.5 per class but I can certainly make the figure available to the hon Member.

HON L FRANCIS:

Our sources would seem to be reliable and even if the figure is as the Minister states there still would seem to have been a deterioration in that ratio over a period of time which is a cause for concern. I was not proposing to have a debate on it but purely pointing out that there is an area of concern here and to explain what that means in practice, teachers are having less and less time to dedicate to individual pupils, for example students lagging behind for one reason or another may not be getting that extra attention purely because of the workload placed upon the teachers and the larger classes involved. Therefore, the overall quality of education to maybe not the brighter students but certainly the ones that have more difficulty may suffer as a result. Again this has been happening it would seem over a period of time when the national curriculum has been taken on which in itself has involved an extra workload for teachers and has also affected the amount of time they have to dedicate to individual pupils. All this has compounded the problem. Having said that, the information we received is of course not the same across all schools. In fact, some schools may be overstaffed because of the demographic changes taking place. What we are saying here is that there is a need to look closely at Bayside and to stop the decline and put it back to the levels it has always had. If we are serious about education and training for a possible future expanding economy, which, obviously, we hope it is, we cannot let the situation and the standards slide otherwise when the time comes for an expanding economy if the education level of some people will not be there to enable them to take up those jobs. It may in turn mean that we will have to bring in people from abroad to get us into that cycle which we do not want to see repeated in Gibraltar. We want the jobs for

our own people. We are bringing this to the attention of the Minister now and obviously we would like a commitment to, at the very least, restore the pupil to teacher ratios at Bayside to a satisfactory level; what is considered satisfactory by the teachers there and what has been the historical record and to maintain those pupil to teacher ratios wherever they may already be deemed satisfactory in other schools.

On what the Minister said about the regulation of nurseries, that is of course most welcome news. We have raised the question of nurseries in the past and we had our different opinions. We would like to see a greater provision of nursery facilities by Government for those people who cannot afford to take on private nursery education. In any case we welcome the fact that some regulation, albeit of a voluntary nature, is taking place. I myself have enquired in the past about what sort of inspections take place at nurseries and I do know that the Environmental Health Department does take a keen interest in what goes on and that certain environmental and health standards are adhered to at the schools. I am glad that now we are also looking into the educational standards being achieved in places that are approved nurseries. That is most welcome.

Moving on to another area within the education system, which has recently given us cause for concern and which I have had correspondence with the Minister about, is the question of access funds. Here, of course, the problem does not seem to be so much the lack of resources available which seem adequate but the procedures for handling and accepting applications from the students concerned. Hon Members will recall that the access fund was put into place to subsidise those students who had lost the housing benefits in the UK. The Minister is aware, from the recent correspondence I have had with him, that the Opposition has been receiving some complaints from worried parents whose children, for one reason or another, have been declined these funds. The Minister has often taken these cases up away from the House but the basic problem will remain which will be that there seems to be no publicised and clear criteria of at what level funds are given. What are the criteria for giving these funds and when are these funds refused? To compound the problem, apparently when people have been turned down, no reason has been given for their being turned down when they have received the letter and on further enquiry have been refused explanations. It would seem to be purely an administrative problem more than anything else and I am sure that the Minister has the criteria clear in his own mind. It would just help the public if they knew what the criteria are so that everybody would be satisfied publicly on how this thing

works and how it is going to be handled in the future. Of course, this is going to happen yearly so if we set out the law of the land now it should settle down into a reasonable pattern which everybody is happy with, in the same way as the scholarship system works. I would ask the Minister to look into that to avoid any problems again next year.

Briefly, on the national curriculum, it would seem that because of the constraints of the national curriculum which specifies rigidly what and how things should be taught at our schools in our system; the British system, there is a real danger of losing the local input into the education system that we used to have on a wider scale before. Local history and geography used to be injected into lessons previously and which now, because of constraints of the national curriculum, through no fault of the Education Department or the teachers concerned, has been lost. It is quite serious when children can no longer relate to their local heritage and surroundings because of this and are being taught about what is in effect an alien set of values and lessons in these areas. I think it may be a question of sitting down with the teachers and seeing what can be done and what little can be put back into the system although I do realise that there are constraints and problems because of the national curriculum. Maybe it is an area which merits looking into because it is important for our young people to learn not only about other societies and the ways things are done elsewhere but the way Gibraltar has developed and why we are here and how we came to be here.

Looking through the establishment figures in the Estimates, of course, gives me an opportunity to raise the question of the privatisation of the John Mackintosh Hall since we see that the ten employees there have now departed for other posts elsewhere. I must take this opportunity of voicing again the discontent of the Opposition and of the public at the manner in which the privatisation was handled. I hasten to add that we are not against the privatisation as such. It is going to provide cost-effectiveness and perhaps a better service to the public. Our quarrel is with the unnecessary way it was done. It would seem to us that there was little or no notice to the employees and certainly no notice to the public it was about to happen. There seemed to have been no tendering procedures. There has been no disclosure of details of the contract which we called for at the time and there has been no clear commitment that costs to the users will not be affected which we also called for at the time. I am sure it may well be that the John Mackintosh Hall is now operating more efficiently and providing a better service but the fact remains that nothing is known about the details, about

what happened or why it happened and where it is to go. Government would save itself a lot of hassle in areas such as this one if it just gave a little prior notice as to what is going on and a little explanation. There should be no mystery to it and it perhaps might be a matter of public relations.

The House recessed at 7.05 pm.

WEDNESDAY 26TH MAY, 1993

The House resumed at 10.20 am.

MR SPEAKER:

We shall continue with the debate now. The Hon L Francis is on the floor.

HON L FRANCIS:

Mr Speaker, I was just about to start on youth and culture yesterday when we ended. We note from the Estimates that the expenditure on youth and culture grants remains static at £70,000, which in real terms means it has fallen this year. It is an area of concern because youth unemployment has become a reality and will continue to be a reality for the time being because of the current economic climate in spite of the efforts of the Minister with the Youth Training Scheme etc. We feel it is an area that has to be given some special attention if we are not to be faced with the problems that are being faced elsewhere. Young people need to be motivated and must have the opportunity to be involved in constructive and instructive activities, whether in employment or not and which can broaden their horizons and educate them as people and as citizens. The alternative in a situation with youth unemployment is boredom and frustration. To an extent in Gibraltar that applies also even to those who are employed after work. There is still that element which we always hear youth complaining of in Gibraltar but it is going to get more acute. We know what this can lead to from the experience of other countries not a million miles away or the United Kingdom; the temptations and problems that can lead from this. The youth service and the clubs are doing sterling work at the moment with their resources but we in the Opposition feel that priority should be given to the opening-up of a whole new range of activities which perhaps has not been available in the past to young people in Gibraltar. What we have now is all that there can be and I am not necessarily asking for more financial contributions. I realise that there are constraints on the Government budget and it is very easy to stand up here and ask for more financial resources to be made

available to every department but what is needed is the backing and structural help and the organisational skills of different departments to enable people to take advantage; to use their own initiative to set up new activities. The Minister was talking about the 50th Anniversary of the Drama Festival. That is one area of activity which has been very successful in Gibraltar in the past although the people participating have been limited, not to a narrow range of people, but not as wide as it might otherwise be. This sets the scene for all sorts of other activities for after school clubs or summer camps to be set up which can teach and can encourage people to take up things like sailing, climbing, camping; things that are not normally available in Gibraltar and which involve young people working in teams and achieving certain levels of success at chosen sports or recreational activities. I feel this is important particularly with that background of youth unemployment which has developed and which may continue to develop in spite of the efforts of the Government. Another area which could possibly be tackled is the setting-up of environmental and heritage projects with the participation of young people. These sort of projects are successful in the UK and elsewhere where people actually put in work on a voluntary basis on restoration projects. This would give them a stake in our community and a stake in our heritage and at the same time they learn about the heritage which we have here in Gibraltar and gives them that stake in the community which otherwise they might not develop and which can also affect their social behaviour. The youth exchanges which the Minister talked about, of course, are also welcome and these are very important. That is an area we would like to see expanded. Everything that broadens the horizon of young people in Gibraltar and enables them to see how other people live that shows that there is a big wide world out there and that Gibraltar is not the centre of the universe and educates them in that way and makes them better citizens, I believe, is always welcome and perhaps that is one area where more financial resources could be dedicated. Moving on to a slightly different level; youth enterprise schemes are also something which we in Opposition would welcome to enhance that initiative and energy of young people and the ability that our young people here in Gibraltar definitely have, in terms of start-up capital or premises. There are lots of youngsters out there who would benefit from schemes such as this which would create some economic activity and again relieve them of that fear of unemployment which is with us these days. We realise that there are, of course, many calls on Government expenditure, as I said before, but because the youth of Gibraltar is the future of Gibraltar it must take some measure of priority in many ways. As I said, a lot can be done with just

official backing and organisational skills and facilities being made available rather than with financial input.

Moving on to sport; one of my other areas of my shadow responsibility, I must start by congratulating the Minister on her hat trick in the squash championships. The biggest item of contention at the moment within the sporting field is the future of the Island Games 1995 and I hope we will have more opportunities to discuss that over the next couple of years because it will mean that they are progressing and coming on stream. The Minister has assured the House, on a number of occasions, that Government will be supporting this venture and that they are confident that facilities will be ready in time. As we all know, we are now weeks away from the final presentation by the local Island Games Association to the Island Games Committee at the Isle of Wight next month. We seem to be still no nearer to providing the necessary facilities than we were months ago when the alarm bells started ringing. I realise the Minister has told us that the Minister for the Environment is now taking the matters in hand and talking to the developers but that, of course, does not allay the immediate problem now with the presentation coming up. I welcome the Minister's statement that the Games will go ahead and she has given the Government's assurance that the facilities will be there as I understand it and that is most welcome but that still leaves the problem for the people making the presentation next month at the Games when they will be asked where the facilities are and when they are likely to start. They will be asked for details and they must be in a position to provide that otherwise we run the risk of the games being lost. It is quite an important and urgent issue now to be addressed and I hope they are giving it the emergency treatment that it requires at this stage because it is the eleventh hour now and we must have some firm answers soon at least for them to take to the Isle of Wight and present to those people there. If we are unsuccessful and we lose the bid because we cannot give concrete enough assurances, we run the risk of losing the games and not only will Gibraltar's standing in the international sporting community be affected and damaged for a long time to come but its standing and reputation in other spheres will also be damaged. Our hopes for Olympic recognition would suffer a blow. The economic repercussions of having lost the games would be serious to the local trade because we expect around 2,000 athletics here for two weeks which provide a significant economic input into local trade which is most welcome at the moment. I would suggest that it would be cheaper to build the pool than to lose the games, if one takes all these factors into account. Something must be done and some answers must be given to these people so that they can take the assurances with them to the Isle of Wight.

On another matter which is of increasing concern locally to the sports people are the rumours, they are more than rumours now, that the area around the stadium is to be developed into a large petrol station. There are many rumours flying about as to how this will affect the stadium. Some rumours have it that the changing rooms and the hockey pitch will disappear - the training pitch. The Minister is nodding her head but I am addressing the rumours that there are in town and the fears that have been expressed to me. I am glad to hear that it will not affect the stadium in that way. I would like to hear that it does not affect the stadium in any way. Given the importance of the two local sports at the stadium it might have been an idea if some public announcement had been made at the time allaying and addressing these factors so that people would have no need to concern themselves. It would be welcome to hear either from the Minister for Sport or from the Minister for the Environment's contribution later on whether there are any planned extra facilities being made available to the stadium in any way because of the deal. Is any space being lost? Just the details of what is going to happen there.

Moving on to my last area of responsibility; the Environment; we of course welcome the information and have welcomed in the past the formation of the Ministry of the Environment. We pledged ourselves to form such a ministry in our manifesto and hope we have helped in some way to bring about its realisation by making the environment an issue in the House perhaps for the first time. I sincerely hope it is not just a cosmetic exercise; not just labelling of a ministry in a convenient and modern manner. I hope the Minister realises that he now has the capability within one ministry to make a real difference to the quality of the environment we in future as Gibraltarians will enjoy. As far as I am aware the first public initiative of that Ministry has been the Environmental Awareness Campaign which was launched last week or the week before in a hotel on the east side of the Rock, with a nice brochure with some information of what is going on and with a very flattering picture of the Minister for the Environment which was taken a few years ago, I think in his younger days. During a welcome and novel for this Government, public presentation of a mechanism which we would welcome to be taken up in other spheres, not only when public participation is required. I could not help but notice that as the Minister spoke about improving the environment in Gibraltar and his plans and ideas, the beach below was covered in driftwood and other rubbish which was washed-up from the reclamation going on on the east side. If I had been the Minister speaking at that time some thoughts would have been going through my head

and some questions would have been popping up in relation to that reclamation. I would have been asking myself that if the east side reclamation is not going to proceed at this stage for one reason or another, would the destruction and contamination of the natural coastline have to continue at present on such a scale. If the reclamation is to continue much more care will have to be taken in what is being done. I know there are watchmen posted on the various reclamation sites to prevent the dumping of material which is not suitable for reclamation but this does not seem to be enough. There is a lot of flotsam and rubbish and wood which is washed up on to the beaches with the consequential health and environmental threat to the people who use those beaches especially during the summer. Should the dumping continue in the summer at all while the beaches are being heavily used and whilst the few tourists that we do have staying with us are trying to enjoy their holidays? Should the area already claimed not be temporarily landscaped during the summer period to hide what is in effect an ugly scar at the moment before any development takes place on that land not only for our own sakes and our own enjoyment of the area but also for the sake of the thousands of day tourists that pass that way every week and which are treated to a dose of Gibraltar's construction and development activity on the way, which is not part of the official rock tours prescribed by the Ministry of Tourism? These are questions, as I said, which the new Minister for the Environment might have been asking himself. I would have been asking myself when launching the campaign and maybe the best way to set the example and launch that is by tightening up on the procedures for reclamation and what is dumped and what is not dumped. If the Minister is serious about his Ministry and the public participation he wants - I believe he is and I hope he then lets us see that Government take a strong lead. I have here a few other points of the GSD policy which the Minister might care to implement along with the Ministry. They are simple points really but show that the Government does mean business in this sphere and for the most parts do not involve the financial charge on Government. I have eight points here, very simple ones, the first one would be the introduction of a green belt policy. With so much reclamation, as we all know, the pressure is off the old city and the older areas of Gibraltar and there is no reason for a ban on any future development on any of the green areas that we have left in Gibraltar unless there is very good reason for such development to take place. There has been some disquiet recently about the eating-up of our remaining green areas within the urban area and this would be a way of addressing that. The monthly publication of air and sea water quality statistics which we know the Environmental Health Department does collect, would also be a way of

making people aware that their environment is being affected; that the water is vulnerable to being contaminated; that the air that we breathe is not necessarily pure and would make them aware of what their actions or repercussions of their actions have on the environment. One way of doing that is to let them know that there are problems with air and with water. Thankfully not serious problems in Gibraltar but these things are measured and there are things in the air and there are things in the water which should not be there in an ideal world. I would ask the Minister, on a third point, to consider a recycling scheme on a very modest scale as is common practice now elsewhere in the Community. A modest scheme would not involve any huge financial commitment from Government. It could be a voluntary scheme where people take glass etc to central collection points, as happens in the UK, but again it means that the Government does mean business in this area. It allows people to become more conscious and to take part in that improvement on the environment and gives them some responsibility for what goes on. Imposing higher duties for the importation of CFC aerosols and refrigerants, for example, is another area which would mean minimal effort on the part of the Government but again would set an example and show that we are doing something to conserve our environment; would discourage the use of aerosols and would not only introduce but would make more attractive the use of environmentally friendly products. I do realise that the Minister is having a fair of environmentally friendly products some time in the future which is part of the campaign and again is most welcome but if some physical action can be taken to encourage the use of that, all the better. Making catalytic converters mandatory on all vehicles imported into Gibraltar which I believe is going to become EC law very soon any way but bringing it in ahead of the EC regulations shows again that we are seriously committed to the environment. It would have an effect on the quality of the air we breathe almost immediately when the cars, obviously, have gone through the cycle of use and are being replaced. Lowering the import duty on unleaded petrol and making it cheaper and more attractive, again would have an immediate impact on the quality of the air we breathe in our streets and which our children are subjected to. Another point is to actively seek EC funds to improve our sewage treatment before it is discharged. This is an expensive matter; building sewage plants etc, but there are EC funds available for environmental projects which should be chased and if at all possible we should get them for ourselves. That way again to improve the water quality in our beaches. The same funds could be used to fit the local power stations with the technology to clean the emissions from them. I think they are called scrubbers.

At least take the sulphur dioxide and the carbons out of the emissions from generating stations which are harmful to our environment and to people who live in the vicinity of these discharges. Again it is a fairly expensive item but if we seek funds, if they are available that should be done. In my view the Environmental Health Department should be made into a pro-active agency. It seems to be more of a reactive agency reacting to problems and complaints from members of the public. It should be made more into an active agency and perhaps its scope widened to cater for other specialities like marine environment although I know we use consultants for that at the moment. Then it could itself take on conservation projects and enhancement projects which could physically and actively improve the environment rather than just react when problems crop up. It would give it that extra ability which perhaps is a bit lacking at the moment because of workload etc. As I said, just a few simple measures that can be introduced relatively quickly and which would show that the Government mean business with the concept of the Ministry of the Environment and that it is not just a lot of hot air. This Ministry now also has responsibility for the urban environment and heritage in Gibraltar and I was heartened to hear the Minister speak at the environmental launching of the Environmental Awareness Campaign about the fact that he was reviewing planning legislation. Somehow I do not think that what he meant with that is that he is thinking of introducing the open planning system we advocate and are committed to and which we believe this community deserves. A system where the public can object to plans for developments well before they are approved or begun which are the rights they have in other western democracies and which we have always been denied in Gibraltar. It has not been a function of this Government but has always happened in Gibraltar. We would like to see that changed. We are committed to that. We were committed to it in the last election and we will be committed to that again in the next election. It is the only way to ensure that the urban environment is shaped in a way people are happy with and find acceptable and that it is not done behind closed doors by a chosen few however virtuous and knowledgeable those people are. They will not necessarily reflect public attitudes and public choices. In his brochure of the presentation there is talk of a heritage and environment committee which I do not know much about but would seem to be in this sense a step sideways. It is an advisory body so it is a step forward in a sense but it is not as far forward as obviously as would like to see things moving. One question there which the Minister might like to address later on is that from what it says in the brochure it would seem that the Heritage Trust has not been included on that committee. I am not sure whether there is a printing error but if it

is true it would seem rather strange that the Heritage Trust is not involved.

[HON J PILCHER: It is not true, they are included.]

I am glad to hear it. It seemed a bit strange that they had not been included. There was also another committee being formed, the Environment Committee. I have again very little information on it and I would welcome some details from the Minister when he makes his contribution. If heritage is important to the Government and the Government believes it is important to the community where is the evidence of Government's commitment for restoration of historic areas? Where are the funds for that restoration and if there are no funds, I accept there is an economic squeeze on everybody not just the Government, where are the attempts to get those funds from outside agencies; from the EC which has funds for environmental projects, from other outside agencies in the UK which might be willing to contribute? Where is the targetting of King's Bastion, the northern defences and Rosia Bay area which should be being developed? If we cannot get funds from outside agencies in any shape, manner or form where are the local initiatives to use volunteers to maybe through the Heritage Trust and their membership take on this restoration projects at modest scales to start with but a start being made and something being seen and improvements being made to these areas which can and should be harnessed for local economic activity, for the improvement of tourism and for the improvement of the environment of our local people and our heritage? These things can be made to work and to produce income to finance future restorations of other areas. We know Government has thought along these lines in the past but there seems to have been little action recently on this. Maybe there have been other priorities, but some initiatives are required and if those funds are not available, as I say, other ways can be found maybe on a more modest scale, perhaps on a scale where at least some activity could be taking place and something could be being done with the use of volunteers. This system of volunteers happens in the UK. There are things like countryside trusts where people give up time at weekends to dedicate themselves to such projects and people are happy to do that in many cases. It is a question of trying it here to see but maybe some innovative thinking, which does not necessarily involve the use of huge financial resources, might be the order of the day so we can make a start and put these places to use for our economy. With that I end my contribution. Thank you, Mr Speaker.

HON R MOR:

Mr Speaker, for the benefit of the Hon Mr Cumming, just in case he has another attack of migraine, the duty chemist is Calpe Pharmacy. Mr Speaker, as you know normally in these sessions we take the opportunity of informing the House of what has transpired during the last year and what the policy is for the next twelve months as reflected in the Appropriation Bill. As has been stated previously in this House, and following electoral commitments to give top priority in addressing the unemployment situation, during the last year a restructuring exercise took place whereby the workload in connection with employment and work permits etc was transferred from the DLSS and is now being performed by the Employment and Training Unit. The aim behind this policy is that given the emphasis and the priorities which unemployment acquired as a result of the difficulties being experienced in Gibraltar as well as in the rest of Europe, the Government feels it is sensible to group together education, training and employment. In this way we arrive at a situation whereby, having this combination, we have the facilities and the resources of the Education Department to provide the training needs. We have the unemployed and can identify the specific training needs and we have the job market which indicates where the training should be directed. As I say, the Government feels that by having rearranged all these areas, controlled and managed under the umbrella of one Ministry, this would produce a more sensible and effective arrangement in dealing with our top priority of addressing the unemployment situation in Gibraltar. Let me say that although following this restructuring, matters of employment and training are no longer part of my responsibilities, I have still retained a link with employment and training. I am still responsible for obtaining the aid which we receive from the European Community for the training of our unemployed. These are funds which we received from the European Social Fund which, as is known, the Government has been successful in obtaining since 1990 when the programme of aid was first introduced by the Community. It is a matter of satisfaction for the Government that this represented at the time a historical and major breakthrough as it was the first time ever that Gibraltar received financial aid from the European Community. The money is being provided to Gibraltar through the Department of Employment in the UK as Gibraltar forms part of the UK national application to the Community for such funds. In this respect it may please you particularly, Mr Speaker, that it is perhaps the only instant where Gibraltar has achieved integration with the United Kingdom. I think it is very significant and important for Gibraltar that we have developed very strong links with the Department of Employment in the UK

in relation to the European Social Fund. Indeed, I am pleased to say that a representative from Gibraltar forms part of the working group as well as forming part of the monitoring committee dealing with the European Social Fund. This entails attendance at meetings almost monthly. The importance of this direct participation is twofold: firstly, it ensures that we keep abreast of all developments in connection with the DSS and obtain first hand information immediately this becomes available and, secondly, which is perhaps even more important, it ensures that with our presence there, Gibraltar's position and interest are protected and not overlooked or forgotten as is so often the case when other decisions are taken by the United Kingdom in relation to Community matters and no one there seems to realise what repercussions these may have on Gibraltar. I have digressed slightly but having explained how the labour side of my old responsibilities have been restructured and the reasons for this, I would now refer to how the rest of the DLSS, that is to say the social security and other related functions have ended up following the restructuring exercise. The members of the staff together with work connected with social security and social assistance were transferred to come under the Accountant-General's Department. Personnel on other duties related to the DLSS were deployed and now carry out their work under the Personnel Manager's Department. Let me stress, Mr Speaker, that in most cases the staff concerned are still physically in the same place and performing the same duties as they did under the old DLSS. As is known, the functions dealing with employment and unemployment work were transferred to the Employment Training Unit, and as a result this produced some spare capacity in my responsibilities. I was asked to assist my hon Colleague Mr Baldachino and take over from him the control and management of the Housing Allocation Scheme. I undertook this task in June 1992 and following the new structuring of the responsibilities under the different Ministries, this responsibility has now been transferred to another Ministry.

The main reason, is that I need to dedicate myself almost entirely to a very pressing and important matter which has been brought about by events taking place some years ago. I am referring, to the dissolution of our Social Insurance Fund. You may recall, Mr Speaker, that in the elections of 1988, one of the main issues was the problem of Spanish pensions. As is known, the problem arose as a result of Spain joining the European Community in 1986 and ex Spanish workers who left the Rock when the frontier closed in 1969 and had reached pensionable age became entitled to revalued pensions as opposed to frozen 1969 rates. To give you an indication, Mr Speaker, this meant an increase of something like from 88p a week to

£71.70 a week in some cases. This produced an immediate liability on the Social Insurance Fund which quite quickly absorbed the portion of the Fund which was identified as belonging to these Spaniards and which was referred to as the Spanish Sub-fund. The end result was that unless very drastic measures were taken, including increasing our social insurance contributions to more than double as much, the Fund was bankrupt. Since 1980, the GSLP had been drawing attention to this problem and seeking for the law to be amended before Spain joined the Community so as to, in fact, avoid this problem. This was turned down by the previous administration on the basis that expert advice from the United Kingdom indicated that this was not possible. You may recall, Mr Speaker, that you yourself, when you were Chief Minister of Gibraltar, in 1970 or 1971 suggested at the time to return £0.5million to the Spaniards and avoid any future liability. At the time you were very criticised and very opposed and the end result has been that the Social Insurance Fund developed a liability until the year 2026, amounting to something like £300million. In 1988 this was the situation we knew had existed since 1986 and for this reason we sought a mandate from the people to the effect that we would not pay a single penny towards the cost of Spanish pensions. When we were elected, the position was that all the money in the Spanish Sub-fund, plus extra money which the British Government had provided under an interim agreement would have been spent by late October, 1988. For this reason the matter was given top priority during 1988 and numerous sensitive, difficult and complicated discussions took place with the British Government. Let me say, Mr Speaker, that our respective positions were that we would not pay a single penny and likewise Her Majesty's Government's position was that they were reluctant to pass on the bill to the UK taxpayers. A solution was, however, negotiated by the Chief Minister and on 7 December 1988 a press release was issued by the Gibraltar Government. The press release read: "In the House of Commons this afternoon the Secretary of State for Foreign and Commonwealth Affairs was asked if she would announce the details of the agreement reached on 1 December with the Chief Minister of Gibraltar on the future of the Social Insurance Fund." In reply the Minister of State at the Foreign and Commonwealth Office, the Rt Hon Linda Chalker said: "Her Majesty's Government and the Government of Gibraltar have established that the state of the Social Insurance Fund is such that it is no longer financially viable. Payments will continue to all beneficiaries at existing cash levels for a further five years. At the end of that time the Fund will be dissolved and the balance paid out to all past and present contributors taking account of their accrued rights. Under these arrangements all beneficiaries will be treated in an equitable and non-

discriminatory manner. Her Majesty's Government have agreed to make available the necessary funds to make up any shortfall in the Social Insurance Fund for the duration of these arrangements. The details of dissolution and distribution will now be worked out on the basis of a thorough analysis of the Fund's contribution record." This statement, Mr Speaker, was followed by a Memorandum of Agreement in 1989 under which the United Kingdom provided sufficient funds to continue to cover the payments to Spanish pensioners up to the end of 1993 and to meet any shortfall should this arise. A lot of work and preparation has been done and still continues in connection with the dissolution of the Social Insurance Fund. This has been done in very close consultation with the British Government all along. Running parallel to this, the Government has had several meetings with actuaries and UK experts to examine an alternative arrangement to replace the existing model in operation. The Government expects to offer a smooth transition on to the new arrangements and guarantee continuation to participants under the new operation. In this respect, the Government hopes to bring legislation, possibly at the next meeting of the House. I cannot extend any further on this issue given that discussions and consultations have not been altogether completed and agreements have not been finalised. Also it is the Government's policy, as I have often said on this matter, not to run the risk of being misinterpreted or misquoted on any developments which are not already public knowledge given the political sensitivity of this issue.

It is the Government's intention that the new building which will provide a residential home for the disabled and the existing St Bernadette's Occupational Therapy Centre should be fully operational shortly after this coming summer. In this respect, the Government have been holding discussions with a highly reputable organisation from the United Kingdom which was referred to us by our own professionals in the field. These discussions are being held with the view of setting up a joint venture operation whereby this organisation would manage and run community services to people with learning disabilities and other The idea is for this organisation to come up with proposals designed to provide a model of care for Gibraltar based on the financial resources available to the Government for this purpose. This organisation appears to be quite successful in such joint ventures in the United Kingdom and it is understood they are involved in some 82 such joint ventures throughout the UK and it still appears that they are very much in demand. At this point in time, the Government was in receipt of proposals from this organisation and they are apparently under study. The Government decision will be made public in due course. Mr Speaker, I have nothing

further to say only that last night the GSD leader was misquoted on GBC. We got that straight from the horse's mouth. Thank you.

HON H CORBY:

Mr Speaker, having started the meeting on a lighter note, when I saw the statistics on page 81 of the Labour and Social Security Estimates I thought that the Hon Mr Mor had been made redundant, because all the column of 1993/94 Estimates is down to zero.

Then I found him later on in a meeting I had with him very involved in housing as he had now several other ministries. I am glad to hear the Minister point out what is happening in so far as Spanish pensions are concerned because this is a topic which I raised and the Chief Minister then said it was of national interest and that he would explain it when it was possible. I will not press him on that one because alternative arrangements are now being made with the British Government but it is pleasing to find that the Minister has clarified some of the doubts that people had at home.

Regarding the St Bernadette's Occupational Therapy Centre I do not know if the staffing levels at that centre have been taken care of. Maybe the Minister will advise me on that one. I know that furniture and the reallocation of wards etc was very much discussed and that staff levels were not yet in place. The Minister might then say if that is the case or not. On a much more serious note, in my maiden speech to the House on one occasion such as this, I warned the Government that a dark cloud was looming over Gibraltar and that if uncontrolled this would make serious inroads in our society and in the life enjoyed by Gibraltarians. I was, of course, referring to the unprecedented high levels of unemployment at that time and I am sorry to say I predicted it would be in the thousands by the end of 1993. We have heard from the Chief Minister that the static figure of 600 jobs is now left for two years but he has not taken into account that we have school leavers now joining the ranks of the unemployed very soon when the summer months come on. I give way.

HON CHIEF MINISTER:

Mr Speaker, for the sake of accuracy let me say that the 600 figure includes the school leavers and therefore the proportion of school leavers in the 600 has not gone up. On average, I think, the figure for April was that we had 32 boys under the age of 18 and that in the last 18 months, the number of boys under the age of 18 has been around 40 and the number of girls under the age of 18 has

been around 40. We would like to bring it down from 40 to zero but it is true that there are school leavers leaving every year but it is not that every year we have the school leavers of, say, in 1993 we will not have all the school leavers of 1993 plus all the school leavers of 1992..... We monitor this because it is easy to monitor the numbers that come out of school. There are less coming out of school and going into the job market because more are staying on to do 'A' levels and more are going on to University. Of the remainder, we have a float of about 35 to 40 which means that if four or five people join very month, four or five people leave every month. That is the situation. It is not a satisfactory situation. We want to bring it down to zero but it is not getting worse.

HON H CORBY:

Having cleared that point; I did not know that the school leavers were included in those estimates. When the Opposition have asked how the question of unemployment was going to be tackled, we have been given the answer by the Government Members that they were committed to full employment. That is as far as they went. There was no explanation as to how this was going to be achieved and there was no real solution for the unemployment crisis in Gibraltar. Let me say that one of the fundamental tools or the cornerstone to unemployment, taking away the tourism aspect of it which my hon Friend Mr Vasquez will deal with in his contribution, is investment. Investment generates light industries and generates work. But let me say here that before investment is undertaken, the reputation and standing of any town or country must be impeccable and I have been in the business of investment for quite a number of years in my life. The question that everybody who wants to invest anywhere asks is if the place is safe and if the reputation of the country is impeccable. These are two questions which are always asked when investment comes into being. Again here, we fall short and I will list some of the causes which might deter would-be investors to Gibraltar.

The first one came as a bombshell to Gibraltar and that was the closure of the Bank of Credit and Commerce (Gibraltar) Ltd which left a lot of people, who had their life savings in the bank, out of pocket. That is said by word of mouth to other people in other countries. I come to the closure of the Components Factory which has been put into the hands of receivers, Ernst & Young, at the request of ABN AMRO (Gibraltar) Ltd and ABN AMRO Copenhagen who are seeking to recover some £3million in debts. To make matters worse we have a Minister who forms part of the Board who has written to the creditors stating that they are unable to pay their debts. This is

again a bad reputation for Gibraltar and this should not happen in this day and age. Baltica again is trying to sell its assets in Gibraltar, Europort, Eurotowers and the Europa Incinerator Complex and the reason for this they state is as a result of the failure to implement an airport agreement, delays at the frontier and delays in the laws of Gibraltar being accepted within the EC as factors of the difficulties here. They are now selling their assets at one third of their total value. We hear, and this is only rumour and I do not go on newspaper cuttings but there is a bit I have been told having read it not that it might be true, that Virgin has acquired this asset. It might not be true but this is what is quoted in a newspaper and the Minister and I are in agreement that not everything that is written in a newspaper might be true. Again, the damaging accusation made of the Hon M Feetham in a leading Danish newspaper, Boersen, relating to the Europort development which has remained unchallenged by the Government. Again this creates a reputation for Gibraltar which is not needed. The fast launch trade which not only brings disrepute to the people who deal in it but also for the integrity of all Gibraltarians here in Gibraltar and I count myself as one of them. Therefore, before we embark on attracting investment let us put our house in order. What I have stated above needs careful thought as normally bad reputations are hard to wash away. In order to attract outside investment we must be above reproach and of unblemished reputation and it is only when we achieve this that we can walk in the path of prosperity for Gibraltar.

We must also train and diversify our workforce to undertake any task that is put in their place so that they can again retain their positions in the work market. Our young children must be trained to undertake specialised jobs which become available in the finance centre. Illegal labour, which is the cause of many complaints, must be stamped out once and for all and inspectors must be appointed within the civil service to undertake spot checks to eradicate this practice. Continual consultation with the T&GWU and the trade must be undertaken in order to find a way forward to curb unemployment in Gibraltar. In short, a comprehensive and in-depth study must be undertaken to eradicate this practice from our society. I have also touched briefly on the fast launch activities which is not only damaging to our image in Europe but also to the credibility of all of us here in Gibraltar. The Government Members must have seen what propaganda that gives to Gibraltar in as far as the Sky production of the fast launch trade produces. Only recently in a public meeting Police Commissioner Joe Canepa stated that he had submitted several proposals to the Government to change the law and

combat tobacco and drug smuggling. These were that licences be withheld for persons with criminal records; speedboat coxswains and crew should be properly qualified; an important one which is engines should be of a lower horse power and the owning of a speedboat should be properly regulated. These are all things that will give the dragon, if we want to call it that, at least false teeth. The GSD calls on Government to support these measures and to bring legislation to the House as soon as possible for implementation. In addition to the above manpower should be afforded to the police to enable them to undertake adequate patrolling of our shores and shorelines. Here I have spoken to the Commissioner myself and he says that for drug prevention he has a handful of police officers to take care of the drug situation in Gibraltar. He quoted seven were in active duty as far as the fight against drugs is concerned. Maybe a solution would lie in some of the GSL Police joining the Royal Gibraltar Police and the centralisation into one building of the Force would greatly enhance performance and communication. One of the things that came up to me and it was through Mr Campbello's campaign which I read in the VOX; I was not at the time aware of it and to me it seems quite sensible and I think it should be implemented. That is the setting up of an independent drug force of UK-based officers which he, Mr Campbello I say publicly, was responsible for. I had nothing to do with this but I take on board what he says which is of infinite value in the fight against drugs. This drug force would be of infinite value because the officers would not be freely identifiable as they are at the moment and could in turn mingle with the drug trade itself and here is where the big fish can be landed in the shores of Gibraltar. I have no doubt that this will produce worthwhile results and is a venue which has to be taken very much on board and implemented as soon as possible. I have also warned on many occasions that drug trafficking was on the increase in Gibraltar and I have done this for years and years and years and I proved my point in the House, Mr Speaker, when I showed an increase on drug offences during the period 1981/92 which was an increase of 420 per cent. We are now being told that drugs are being stored in Gibraltar and that the amount of cannabis seized this year exceeds that of the whole of last year. Crack is now a reality in Gibraltar; so is cocaine and heroin. These substances are deadly and everything must be done to eradicate this scourge from our society. I also advocate the implementation of heavy sentences. The drug smuggler comes into our courts and they are given two or three year sentences. The full force of the law must come down on drug trafficking to deter these people from using Gibraltar as a storage for drugs. However, everything does not end with the fight against drugs. Help and support must be given to those

people who fall victim of this illicit trade. The GSD has always advocated that a Drug Rehabilitation Unit be set up in Gibraltar by volunteers and assisted by medical back-up. This is of paramount importance if we want to integrate these drug patients back into society and those people who at times through no fault of their own have fallen by the wayside. Let us give these people a second chance. It is with this in mind that once again I ask Government to take the necessary steps to implement this facility here in Gibraltar as a matter of great urgency.

The Chief Minister has also, on a very optimistic note mentioned the subvention to Mount Alvernia. I have gone to Mount Alvernia on several occasions and I am like some hon Colleagues here very worried about the financial situation of Mount Alvernia. The last influx of capital to Mount Alvernia was £1million and here we tend to forget that there are two Homes; one is the Jewish Home and one is the Mount Alvernia Home. That was distributed between both these homes. £400,000 of that £1million has already been spent by the Board so that means that money from the capital was being eroded and is still being eroded. I am worried that if the subvention is not enough or if the Government does not take steps to eradicate the erosion of the capital then the Government or whoever is in Government at the time that this happens will be landed with a bill in the region of £1million because it takes £200,000 roughly for one of the wards to function for a year. There are three wards with 92 senior citizens in them. Maintenance in Mount Alvernia is practically nil and one only has to go there and see the facade of the place. It has not been painted for ages. The ward which is closed for four years is in dire need of repair. It is not open because it costs £200,000. Another problem that has arisen recently in Mount Alvernia is staffing levels. We have two qualified nurses who have left the service and have not been replaced. People do come up to me and say that they are working from eight o'clock to eight o'clock in the evening to make up for the hours of those two nurses. I hope that the Government takes this very much into hand and eradicate that problem. I will sit down, Mr Speaker, and I would like to say that I will listen to the Chief Minister's comments on Mount Alvernia. I give way to my hon Colleague.

HON P CUMMING:

I would just like to refer to what the Hon Mr Mor has been saying about the home for the handicapped and the joint venture for running it. Mr Speaker, I just wonder whether we could have a little more clarification from the Government because it would seem that this is truly taking jobs; why bring people from UK to teach dyslexics?

There are plenty of nurses that could go to the UK and do a course to specialise in this and take over the running of that home. A joint venture is going to reduce the running of that place to the situation Mount Alvernia is; chronically short of funds. Surely if the thing is worth doing it is worth doing properly.

HON CHIEF MINISTER:

What my hon Colleague has informed the House is that we have had proposals which are being studied and that the proposals have come on the initiative of the professionals in the department in the civil service. There is no provision for funds for this in the Estimates so there is nothing to debate in the Estimates because we do not pay anybody anything because we are not taking a decision. All that we are doing is giving the hon member advance information that in looking at the operation of the new centre, a company called Millbury Services, which is involved in running 40 centres in the United Kingdom has been put in contact with us by the people who work in the Government and we are looking at their ideas. That is all that is happening.

HON J BALDACHINO:

Mr Speaker, I would like to concentrate in my contribution on the two areas which have been my responsibility in this financial year and that is maintenance and home ownership. The Housing Allocation Scheme and housing allocation was passed on to my hon Colleague Mr Mor. I would like to start with the remarks that have been made in the Principal Auditor's report and which the Leader of the Opposition brought up in his contribution. Let me say that I agree wholeheartedly with him and with the auditors. We have introduced measures to bring that into context with what the Principal Auditor is saying but before I start with that, Mr Speaker, I would like to make some historical points even though I will not want that to be taken as justification for whatever happened. It is normal in all government departments that once money is allocated, the department thinks that that money should be spent. As a matter of fact it is even a common practice in the United Kingdom that when there are going to be savings at the end of the financial year, everybody starts spending all that money so that the budget is not cut and it is not an exception in Gibraltar at all. It is true that if we were to carry on in that system then there would be very little control on the financial side on how money is spent. We have introduced a measure and it is reflected in this year's Estimates because if hon Members were to look at the Improvement and Development Fund, Head 101.2 they will see that there is an 'R' behind the amount

which means that it is reserved. Therefore, if money is reserved it does not mean that people can spend that without justifying in what it is going to be spent. My Department has now introduced a system on accounting. It is true that we have been given one extra body which is an SEO with knowledge of accounting and we are now putting our accounting system in place and I understand that the system that we wanted to implement has been discussed with the Financial and Development Secretary and I think they are satisfied that we are on the right tracks. Furthermore, I have also been provided with a quantity surveyor because in that way we can measure the work better. My Department will no longer pay overtime. My Department will have to justify the work on weeks that is going to be done and then it would have to be approved. In other words, it will take four weeks or it will take five weeks. Let me say that if a job is cut down to three weeks we are prepared to pay the workforce whatever time is saved. Obviously, I am not prepared and I have told this to the workforce to give any more blank cheques and that they must produce value for money as the Principal Auditor has pointed out in his comments. Furthermore, when the Principal Auditor pointed out those comments, an audit for value for money was carried out in my Department and we intend to introduce most of the points that have been brought up in that audit report. It is important that we do that not only because there are financial constraints; it is important that even if there was no financial constraint that we should spend our money properly and therefore that we should get the best results for that money. I am no slave driver. I come from the grass roots of the Union but it must be understood that I am not prepared either to defend here or in the Council of Minister. The hon Member said that ministers normally hit one another; that is not the case. It is obvious that sometimes when one is in a ministry for so long one thinks that one is part of that ministry and one defends that ministry. Equally all ministers do that but I will defend whatever it is that I can justify where the money has gone; how we are spending and why we have spent it. What I am not prepared to do is to find myself in the position where I cannot do that and that is a normal thing that happens in all Government departments and that is why, as the Chief Minister has said, certain things have been introduced like no more cross-charging. My department used to receive a bill six months later from another department that had carried out some work with us and we never had control. In other words, we had no prior knowledge how much it was going to cost. I think it is only fair that that is the road that we are going to be taking. I have been quite clear with my workforce. As a matter of fact I have been quite clear with the union representative of my workforce that I intend to go into that road and to my satisfaction the

workforce has responded positively, so has the union representatives who are willing to cooperate that we go into that road. I believe that even though we have laid the foundations for that, we need further discussion after the meeting of the House where we can then discuss the Estimates as I could not before because it was not a public document. We will be giving our tenants and the whole of the people of Gibraltar a better service. In that respect, Mr Speaker, I am quite happy that we can actually carry out the recommendations of the value for money audit and also the position and the comments that have been made by the Principal Auditor. Let me say that I do not believe that I need to increase my supervisory establishment. I think that that is only a minor thing. We were lucky on control of the finances and how we would spend and obviously that people had a blank cheque and therefore they believed that they could spend whatever amount that we had in the Estimates. I am not prepared to accept that. I say that now publicly and therefore we will now go more into a normal commercial company and therefore people will have to produce the goods if they want to earn some of the money. Having said that, I am not completely satisfied that the work that has been carried out in the past, even though it might have cost us more, has not been an improvement on what was there before. It is visibly clear that major refurbishments have been carried out in most of our estates. Alameda Estate was one that had had been left to deteriorate for the past 15 years and therefore we intend to carry out other refurbishment in the area or to continue wherever refurbishments need to be continued in other areas. For example, we have started to bring up to scratch Alameda Estate, Varyl Begg Estate, Laguna Estate, Glacis Estate, Moorish Castle Estate and other areas and we intend to do that under the new measures that we will be introducing. If that is possible then we will go that way. If that is not possible; if we cannot find an agreement let me say that I am not prepared to give blank cheques to anybody and therefore jobs will probably have to come to a standstill. Apart from doing major jobs in our estates we are also been able to refurbish almost 100 flats that have been returned by people who have released their Government-rented flats back to the housing stock of people who have purchased either in Westside I or Westside II and now we are expecting other flats to come back from people who have purchased in Brympton. Obviously it is not an area where I hold responsibility anymore. It is quite clear that the waiting list has been reduced dramatically. We intend to follow that path. I am convinced that the seeds that had been planted in 1988 are now bearing fruition and therefore more people who have been living in either inadequate accommodation or have been waiting for a long time for a Government-rented flat, will be in a better position for

the Government to rehouse them. Let me say that the way that we intend to carry out this thing is that the quantity surveyor will make an estimate of the work. The procedure is that if they say that they can do it before one week of their estimated time then that week will be shared by whatever workers have been working in that project.

I had it down in my notes before the intervention of the Leader of the Opposition when he called it optical illusions. It was a theme of some of the Members of the Opposition at election time; these optical illusions. Let me say that in the optical illusion or in part of that optical illusion we have been able to house over 1,000 families and the intention is that that optical illusion becomes a reality of which I have no doubt because the buildings are already there. In the region of 1,955 families will be housed in that area. That is not counting Brympton which has, I think, another 184 families. Mr Speaker, this has been possible because it is a reflection on the housing policy of the Government and it is a reflection obviously also on the housing waiting list. The housing waiting list has been reduced dramatically since 1988. It now stands in the region of 950 families where as 2,106 families were there when we came into office. I am convinced that even though my hon Colleague the Minister for Tourism and the Environment will have a lot of headaches, he will nevertheless also find the satisfaction that he will be able to house more people than ever before. The hon Member said that we were the most highly taxed individuals probably in western Europe which I, without any doubt, do not disagree with but we are not the most heavily taxed. There is a difference between being highly taxed and heavily taxed but it is also true, which he so often forgets to mention, that since the Government came into power there have been no rent increases, no electricity increases and no water increases. Only the cost adjustment allowance; if it costs more for fuel then it is obvious that that has to be passed on but as a revenue-raising measure there has not been any increases in those areas. I am glad that for the first time he accepts that the Government have given tax relief in areas of the economy where we needed to help those people who were in housing. I am also sure that he must also recognise that it was not just for people who were purchasing in developments where there have been a certain amount of subsidy by the Government either by providing the land free or providing the infrastructure free, but also for the whole of Gibraltar or anybody who had purchased a flat. In that area he just cannot say that people are worse off in money. I must remind the hon Member that what the previous administration did and which we criticised was that they borrowed money to give

back in tax allowances. The Chief Minister made it quite clear in 1988 that that would not be the policy of the Government. Apart from that I am now satisfied even though I am not completely satisfied because there is still a lot of work to do to bring our housing stock back to scratch and obviously, unfortunately we will not be able to keep happy all of our tenants. It is virtually impossible when we have a situation, like I said before, that the building stock had been left to deteriorate for 15 years, that in four or five years we now bring everything up to scratch.

I would like to finish with an advice for the Hon Mr Cumming. If he carries on making contributions like the one he has made in this meeting of the House, not only will he have achieved to have been kicked out of the Union, to have been kicked out of the hospital, but he will most probably will get kicked out from the House. I am prepared to give way.

HON P CUMMING:

The comments that the Hon Mr Baldachino has just made were made by the Hon Mr Pilcher last year because I was a new boy and I was a bit afraid to answer when he said, "You were kicked out from here and you were kicked out from there and now you will be kicked out from here". Can I just answer that by saying that I was excluded from the hospital by the GSLP on personal vendetta business; exactly the same people refused my re-admission to the Union - it was not that I was kicked out of the Union - and in this last bastion of democracy I do not see how either the Hon Mr Baldachino or the Hon Mr Pilcher are going to kick me out.

HON J BALDACHINO:

Mr Speaker, if my recollection is correct the hon Member held the post of tutor in the hospital and because he did not agree with the policy of the hospital or whatever it is of the students, he, on his own initiative, closed the school, left the school, and if ever he becomes a minister I hope that if he has not got his way and he is the Minister for Medical Services, he will not close the hospital and also leave and leave all the patients waiting there for the hon Member to come back.

MR SPEAKER:

I think I have to draw attention to a point of order regarding interruptions in the House. The interruption is made to clarify a point that the speaker has just made. This depends on whether the speaker wants to give way. If the speaker does not want to give way there is

nothing that can be done. One thing that we are not allowed to do is what I allowed just before when I allowed the Hon Mr Cumming to get the Hon Mr Corby to give way and then he asked a question to another Member of the House. This is why I was hesitant and I was only trying to see what was being got at and when I thought it was a matter of general interest I allowed it, but that must not be seen as a precedent. In other words, if the Hon Mr Cumming wants the Hon Mr Corby to give way, the question must go to Mr Corby in clarification of something that is wanted to be clarified. I hope I have made that clear.

HON M RAMAGGE:

Mr Speaker, I was glad to hear the Minister for Housing say that we can, as of now, expect to get value for money on repairs being done to Government property and that a repetition of costs like the £418,000 for repairing the balconies at Tank Ramp will not occur. That is good news. The Opposition views with great concern the announcement by Government of its intention to allocate the four ex-MOD flats at ex-WT station, Europa Road, on a 20-year non-transferable, self-repairing lease on a rental basis with payments of a premium. Such a payment can only be described as 'key money', a practice declared immoral by the GSLP when in opposition and illegal to the private sector. Have Government now changed their mind? Do they no longer think it is immoral to charge key money simply because it is not illegal for the Crown to do so? In other words, because they are not bound in law as the private sector is? I was of the opinion that laws were made to protect the citizens of the land. Does Government not realise that by ignoring this law they are acting against the best interests of the citizens of this community? Surely, the Government must realise that those less fortunate in our society who may perhaps have been on the housing list for years must feel that they are now being discriminated against simply because they do not have the adequate financial resources to pay key money. Because, indeed those who have to be allocated the flats in question will of necessity have received preferential treatment. For them the housing waiting list will somehow have to be by-passed. By the same token, those who have to be allocated the flats in question, those that have to pay the key money will know that in doing so they are directly or indirectly helping the Government to fund the 50-50 scheme. I say this because already revenues received by the Government are used by the Government to pay all their expenses. This is part of the revenue and can be used as part of the 50-50 scheme; a scheme offered to all Gibraltarians without discrimination and therefore accepted by some of the more fortunate members of our society who are, by far better

off financially than they themselves. In essence, Mr Speaker, in two short steps, what we are really seeing here is how, no doubt unwittingly, the Government will be asking the poor to subsidise the rich but at the very least the poor will be helping the rich to get better accommodation and therefore a more improved standard of living. In any case the gap widens. It is for these reasons, Mr Speaker, that we in the Opposition would ask the Government to seriously reconsider the charging of the so-called premium payments when allocating properties, whether or not they are ex-MOD. Key money is a bad idea. The Opposition is not against the Government trying to raise extra revenue to fund the 50-50 scheme or indeed any other scheme which would improve the living standards of our people but we feel that the Government can better do so by selling both ex-MOD and Government houses as opposed to flats. We feel that all ex-MOD flats should be retained as housing stock and allocated through the proper channels, i.e. the Housing Allocation Committee. There is a need to create a further bank of subsidised housing not only because of our rising unemployment but principally because a considerable number of our fellow citizens are today living in sub-standard conditions. Indeed, I would go so far as to say that some are living in dangerous conditions as is the case of the tenants at No. 9 Devil's Gap where the retaining wall is said to be in danger of collapsing. Still others are today living in dwellings which have for some time now been condemned and declared unfit for human habitation. It is not good enough for the Government to hide behind the fact that some of the tenants living in these condemned buildings do so of their own choice. A building declared unfit for human habitation is just that, unfit for human habitation. It is the duty of the landlord, in this case the Government, to decant a condemned building and then, after conducting the appropriate survey, either repair the building if economically viable or demolish it at the earliest possible opportunity. Mr Speaker, this is conveniently being ignored by the pertinent authorities including the Government. Furthermore, if decanted places like the Filipino hostel at North Gorge, 30 Town Range and the temporary housing units at Queensway, all of which fall under one or other of the categories mentioned before could be pulled down and their spaces put to better use to the benefit of our society in general. At the risk of being accused of scaremongering, I put it to the Government that one of these condemned buildings may one day collapse. If that happens we may be faced with a major catastrophe. A catastrophe which can be avoided if Government take heed of their own experts who are, after all, the experts who condemned the buildings in the first place. We are not saying that the Government has created this unhappy state of affairs but what we do say is that

no Government in the history of Gibraltar has ever been in such a favourable position to alleviate the plight of these unfortunate people particularly when we take into account the number of properties that have been handed over to them by the MOD. The Government can really improve the living standards of those less fortunate in our society by moving faster on the re-allocation of all ex-MOD flats which we feel, as I said before, should be used to create a further bank of subsidised housing. Whilst on the need for a further increased bank of subsidised housing I now turn to the Gib 5 project which is now a reality. The Opposition would again call on the Government to clarify their position as regards Gib 5. We would ask the Government to categorically state that these flats will be retained as housing stock and as subsidised flats be used to relieve the housing waiting list as promised in their election manifesto. The allocation of the flats at Gib 5 by any other means such as selling them or, even worse, offering them for rent with payment of a premium, in other words, key money, can and only will be interpreted as breaking their word to the electorate which was, and I will remind them, to build 500 units of low cost housing which is subsidised rent. Thank you. I will give way to the Hon Mr Baldachino.

HON J BALDACHINO:

I only want to raise one point for clarification and that is on the premium. The desirability of the premium or not would be answered by my hon Colleague Mr Pilcher but on the legal point of view, his argument is that the Government is doing something that the private landlords are not permitted and I hope that he is referring to Section 33(1) of the Landlord and Tenants Ordinance which says, "to which this part applies" and that is to pre-war flats. [Interruption] Pre-1945! Part III of the Landlord and Tenants Ordinance applies to pre-war flats that were built in 1940 and we say 1945 but from 1940 to 1945 no buildings were built in Gibraltar because we were in the Second World War. [Interruption] I know what the Landlord and Tenants Ordinance says. The hon Member is saying 1954. These buildings were not built in 1954 and therefore as the buildings were not built in 1954 I think that it is erroneous to say to the people of Gibraltar that the Government is doing something that does not permit private landlords to do. That is not correct and I want that point to be clarified even though I accept that there might be an argument where there is a desirability to charge a premium or not. That will be for my hon Colleague, Minister for Tourism and the Environment to answer if he thinks it necessary that he should answer. The other point is that I agree with the hon Member that we will need to decant certain people from certain areas. I am sure he will agree with me, at

least in a consensus, that what we cannot have is tenants in that situation then using that as a lever to be choosy to which area they go or which area they want or what flat they want. If they are in a dangerous situation then we all must accept that they can only be rehoused in whatever housing unit the Government have got at the time. I hope the hon Member also realises that and I can tell him that once we reach that stage, tenants start to negotiate with the Government. That has to be stopped and we will have to say, "Look, that is the unit that we have and you are in a dangerous situation and that is where we are putting you". That is being a good landlord but what we are not prepared to accept is when people start to negotiate where they want to go and to put pressure on the Government. I accept that the Opposition might accept that way of thinking.

HON M RAMAGGE:

I thank the Minister. I accept what he is saying but on the first point, the legality or not of the charging of key money is not an issue. All I am saying is that key money is a bad idea because it discriminates and therefore whether or not it is legal, it is still a bad idea. That is what I mean in the first place. On the second point I realise the difficulties which the Minister has to decant these places but what I am saying is that difficulties or no difficulties he still has an obligation to decant them and he still has to put these people somewhere where they are safe.

HON J PILCHER:

Mr Speaker, before starting with really what is the basis of my contribution which is the information which the Ministers responsible for the different departments give, not only in the House because we put it at Budget session, the state of the economy session or whatever else we call it, I would say that really what the Government does in the budget session is advise the Gibraltarians through the House of Assembly and discuss the matters with the Opposition of what is the way forward on the different Ministries for the budget that we will be voting on later in the Committee Stage for 1993/94. Normally, before I go into my expose of my own Ministry I comment on various matters said by speakers prior to me. One element which I will say and which I did again last year, was that the way that we have agreed the order of speaking means that the Hon Mr Vasquez, who talks on tourism, will be speaking after me and if there is any clarification of any matter that he wants I will be more than happy to give that to him if he sits down and gives way. I dare say that that will not be necessary because I dare say that the pattern that has

emerged this year is precisely the same pattern that emerged last year. It is a pattern where, taking out of the equation the fact that we are informing the general public of what we are doing in our Ministries - more particularly important this year because of the ministerial portfolio changes that the Chief Minister announced - it is important to note the feelings of the Opposition. I have been sitting here - although not quietly all the time as my hon Colleague pointed out to me - trying to take in the different areas of impression and policy of the Opposition party and there is not any. What we have is three distinct facets of the Opposition party not inter-linked in any way and which remind me to a point of the haphazard approach of the last years of the AACR Government when they went into opposition. We have had... [Interruption] No, no, I do not want economic plans. I am trying to analyse not the Opposition's policies or their plans but what they say, taking into account what has been said by speakers in front of me. I still have to sit down and listen to the Hon Mr Vasquez and the Hon and Gallant Colonel Britto but there seems to me to be three different facets. The first facet is clear in the speech of the Leader of the Opposition which is, if we read the Hansard of last year and the Hansard of this year, exactly the same type of speech. It is, I dare say, a speech of prophet of doom and I think the Leader of the Opposition has a death wish. He would like to see Gibraltar going downhill only to be able to then stand up and say "I told you so. I was telling you so." The whole thrust of his argument is I will dedicate myself specifically to certain areas but, just en passant, he said that the Government have had no policies for tourism over the last four years and that if they spent any money on infrastructure on tourism for the last three years..... Does not the Leader of the Opposition or should not the Leader of the Opposition perhaps learn something from the individual sitting on his left who at least deals with opposition matters the way that Opposition Members should deal with matters? That is to give praise where praise is due, to give support where support is due and then to criticise where criticism is due. The whole of the thrust..... [Interruption] If the hon Member wishes I will give way. I always give way, he knows that. It is not the length of the speech because this House is famous for that. Mr Speaker you yourself will dare say that this House is famous for long speeches and it is famous for long speeches which keep the attention of people focussed. Unfortunately the Leader of the Opposition did not keep the attention of people focussed. He reminds me of the ever-decreasing circles where one actually has got a point that is trying to make and then one comes back down in the same circle until one actually gets to the point. The point that the Leader of the Opposition here in the

House and everywhere else together with his hon Colleagues who form part of that first facet of the GSD make is, "What is the Government doing with their money? Why are we not getting information? Why is the Government hiding all this information? That information must be hidden because there must be certain things happening behind the scenes which then highlight the message of corruption." The message of fraudulent activities which he is now casting because even the Hon Mr Corby is now convinced of. Obviously in the hope that in the same way as Mr Corby..... I will give way.

HON H CORBY:

Let me say before the Minister carries on blackmailing everybody or saying things about everybody, that whenever I put in a criticism or I put in whatever policies I think that the Government are doing wrong - they cannot be doing everything right or else they would be infallible and probably be..... [Interruption] This is what most of the people think. The Chief Minister has given me credit for this on many occasions; I put solutions to it. Let me say that my role here in the House is for the betterment of Gibraltar and not for the destruction of Gibraltar as such. Whenever I make criticisms I follow them up with points and with solutions to those criticisms.

HON J PILCHER:

Mr Speaker, the comment that I made I will not retract. I will not go into financial matters because that is the expertise of the Chief Minister and I would not delve in an area where I am not quasi-expert in. The point I am making is that the speech of the Hon Mr Corby in the budget session this year has been more related to the pattern that I called of the facet A of the GSD than what I would call the facet B which are the speeches that are made by other members of the Party which are much more directly related. The Hon and Gallant Colonel Britto must remember this to the contributions of the GSLP in opposition where we criticised heavily many of the things that the Government were doing but we also supported them in any of the things that they were doing right. [Interruption] I have yet to find any comment made particularly by the hon Member that puts this into question. The second facet of that is the speeches like the speeches of the Hon Mr Francis which deals with quite clearly what he feels are deficiencies in policies but accepts that there are and there have been for the last five years many, many, many policies, many, many, many changes in Gibraltar and many things that we have done for the betterment of our society. [Interruption] Well that may well be the case. Certainly there is a third

facet which again, I shall not mention any names, I think should ask themselves what the hell they are doing in the House of Assembly, Mr Speaker. The element of rumours is something that also fascinates me because there is not, I think, a single speaker that has not stood up and talked about what they hear in the streets. The rumours and what fascinates me even more..... I think this happened on two occasions, when the Leader of the Opposition was speaking. The Chief Minister stood up and corrected that the rumour was incorrect. It does not seem to make any difference whatsoever because as far as they are concerned they have got to come to the House, make a point and it does not really matter. This is important from the Government's point of view when we are trying to identify how we should tackle a specific subject and how we should inform the public and the Opposition because the question that comes to mind, Mr Speaker is whether the Opposition is really interested in getting information which will help them make judgements on situations as they are. I personally do not think they are, Mr Speaker. I think they are much happier to continue to work with rumours and they are much happier not to get, in fact, in financial matters, which I, as I say, do not claim to be an expert in. I think most of the questions and most of the information that the Opposition keep asking for have been given ad nauseam by the Chief Minister in Question Time. It is just that in trying to analyse what the role of the Opposition is, this particular Opposition..... I am generally baffled because certainly it seems to me that the whole essence of their argument is trying to create..... The lawyers do not fool us as much as they used to because today in this world of television we know that part of the legal mechanism with jury - I think my hon Colleage Mr Perez pointed to is - is the fact that if things are said even off the record, even in a court of law one is held to order by the judge. Provided the point is made time and time and time and time again then they generally feel that at one stage there will be a situation where people will believe that Gibraltar is corrupt and that there are many fraudulent activities. That then follows the pattern and arrives at the suggestion of the Hon Mr Corby that that is doing us harm and that we will not get investment. Then why does Mr Corby not ask his colleagues why the hell they are doing it. They must have masochist feelings because if that is the case and we get kicked out because we are a fraudulent and corrupt Government obviously they will inherit and do they really think, Mr Speaker, that we are a fraudulent and corrupt Government? [Interruption] Because if they do as the Hon Mr Vasquez is saying I challenge Mr Vasquez to walk outside of the House of Assembly today and say what he has just done outside the House of Assembly. That is what I challenge, not here in the House, I challenge Mr

Vasquez who has said quite clearly a yes to my question to say this outside of the House of Assembly. [Hon F Vasquez: I will be replying in my address, Mr Speaker.] Outside the House, Mr Speaker, where he has no immunity.

HON P R CARUANA:

On a point of order, Mr Speaker. Perhaps it would be helpful if Mr Speaker might remind the Minister that challenges of that kind have been ruled in England to be a contempt of the House and infringing parliamentary democracy.

HON J PILCHER:

At least one thing is out in the open now and that is the answer of the Hon Mr Vasquez to the question that I have just made. None of the others..... and the Hon Mr Cumming..... I will give way.

HON P CUMMING:

The ball is in the Government's court. We have said all this information; they are hiding a lot of information from this House. If the reason is not corruption then let them give that information. So the ball is in their court. Let the Government give that information and then we have no grounds for.....

HON J PILCHER:

But even if we give the Hon Mr Cumming the information all he will have to do is go to the chemist every day because he picked up the Principal Auditor's Report and got a headache. Anyway, Mr Speaker, I think the point has been made and certainly as far as I am concerned the answer that I got was the answer that I wanted to get because that is genuinely how some of the members of the Opposition feel.

I will now move to my contribution, Mr Speaker. Obviously I am not able to answer the points that the Hon Mr Vasquez will raise but I will comment on the general comment made by the Leader of the Opposition in his contribution when he said that the Government have had no policy on tourism over the last five years and that if we had spent much more money in improving the tourism infrastructure, Gibraltar would be in a much better place today to attract much more overnight tourists. He made a difference between overnight tourists and the day excursionist market which I think we both accept is a buoyant market possibly through no direct involvement of the Government other than in a smallish campaign in Spain to activate the market. I have to tell the Leader of the

Opposition that certainly in one of those two aspects he is now right. The problem is that because, as I said before, he does not pay attention to the policy directives and to the explanation of that policy which I have been giving in this House..... I understand and I take on board that the Leader of the Opposition has not been here for five years, but certainly he has been involved in politics even behind the scenes for the last two or three years. The Government have come to this House and explained the policy on tourism since 1988. We have changed our policy on tourism, certainly on two occasions because of things like the Gulf War and recession but making absolutely clear in 1988 that the whole process which we embarked in 1989 was the devolution of the creation of the policy to the industry and that is what we have done, Mr Speaker. We have, during the course of 1992 and 1993 divorced ourselves from the creation of tourism policy. Tourism policy is now dictated through the Gibraltar Information Bureau which is, as everybody knows, a 100 per cent Government owned company, with the industry, with associations like UK GTA, the Hotel Association and the travel industry in general. They now advise the Government which is the path that we should take on marketing, on advertising and on public relations. The only aspect which the Government get involved in is on the amount of money that we put as part of our advertising and public relations campaign which the Chief Minister said clearly last year was £300,000. He said clearly last year that we wish it would be more but that is what Gibraltar could afford, given the different problems Gibraltar is facing. We have upgraded this this year by £150,000 and that is the money that the Government can spend which then is taken on board by the Gibraltar Information Bureau and, together with the industry, multiplied. For example, like in the case of the Spanish campaign on the weekend breaks where there has been a partnership between the Gibraltar Information Bureau, the Gibraltar Chamber of Commerce and the Gibraltar Development Board. This is also happening in areas in the UK where our budget is multiplied together with tour operators, with airlines and in conjunction with the UK GTA where the Government have a pound for pound policy. Policy on public relations, on advertising, on anything to do with the external market is now a partnership between GIB, the industry as such and the Government who then try to take on board anything which is internal as opposed to external. That is on the tourism policy, i.e. marketing, advertising, etc. That is now not decided by me but decided by the industry themselves and then where I come in is where I can provide the necessary back-up whether financial or whatever in the internal market. On the situation of the infrastructure, Mr Speaker, I think the Leader of the Opposition, and I give way to him, should tell me where

he feels the infrastructure on tourism should be further improved. The Leader of the Opposition should walk round Gibraltar, should go to St Michael's Cave which we have refurbished and put in a new son-et-lumiere. The Apes Den we have refurbished. The Upper Galleries, now called the Siege Tunnels, we have refurbished. The Moorish Castle we have opened again after five years. We are now embarked on the 100-ton gun. We have improved cleanliness in Gibraltar 300 per cent although we still have a way to go. I have walked Gibraltar all my life. Has anybody ever seen the garden areas and the flowers and the beauty that we are now having in different areas in Gibraltar? Has that ever been seen? Does not the Leader of the Opposition believe that that is part of the focus that the Gibraltar Tourism Agency has put as part of tourism infrastructure? Does the hon Member think that Greenarc went there and planted the flowers off their own bat? Greenarc is a Government contractor, Mr Speaker. The Alameda Gardens; does the hon Member forget? A lot of people of the public do forget that when the Alameda Garden was falling in disarray it was the Government's fault but now that everything is coming back; we will have a botanical garden there over the next two to three years, that is no longer Government involvement? Government is paying for that contract. I do not have to minimise the work that is being done by Greenarc by Gibraltar Wildlife, by Sights Management. They are doing an excellent job and more so when we consider that they were members of the Government service who have gone to the private sector and are now doing a splendid job. Mr Speaker, I take my hat off to them. I am not trying to minimise the work that they are doing but we must remember that the financial back-up to all those contracts are Government financial back-ups produced to the Gibraltar Tourism Agency which is contracted by the Government to produce infrastructure in Gibraltar for tourism. We are now looking at various parts of resurfacing pavements which my hon Colleague, Mr Perez, is looking as part of the year's programme. Of course, there are improvements still to be done. Of course, there are areas which we need to clean up. The east side is one in particular. To say nothing could be done or to say what more should be done..... I will give way and then if the Leader of the Opposition wishes to say what else should be done then I will take that into account.

HON P CARUANA:

I am grateful to the Minister for Tourism but given what he has said about the fact that the Government does have a tourism policy that it is now dictated by the private sector, it strikes me that one of the things that the Chief Minister should have done in his review of

yesterday was to have dropped the label 'tourism' from his title, given that he no longer administers a Government tourist policy because it appears that the Government does not have, by their own admission, a tourism policy. The Minister will also recall that I said that primarily what was lacking was an investment of funds in marketing. I will deal with the infrastructure as well in a moment since he has challenged me to do so. I said, "Oh, the Government has spent 10 per cent of what they spent on New Harbours on the touristic infrastructure". The Minister will remember, if he was still interested in tourism at the time given that he no longer administers the policy of the Government in that respect, a letter that appeared in a local newspaper by some senior member of the Scottish Tourist Board. Does he remember that? He said that Gibraltar did not appear to realise that it is full of sites and monuments of great potential touristic interest. On the infrastructural side the Government's failure is precisely in not having invested capital sums of money to make certain things that we take for granted in Gibraltar because we have lived around them all our lives and not realising that they are sites of great potential with touristic interest. For example, Parson's Lodge and the area surrounding Parson's Lodge is a great area of potential touristic. There are city walls; the whole length of city wall is now dedicated to parking and to storage houses and to warehouses. The northern defences, for example; there is any number of sites in Gibraltar that with a little bit of imagination..... The Government appear to think no further than St Michael's Cave, the Galleries and the Moorish Castle. There are dozens of other sites in Gibraltar which with a little bit of imagination and money would make the whole of Gibraltar almost a living historical theme park of the sort that any community, with a Government with the ingenuity and the interest in tourism to promote it, would realise is a potential, historic and touristic gold mine. What is now clear is that they do not even realise that and on the investment side, which is the part that I emphasised, what I told them was that the money that they are spending on the infrastructure for bringing tourists to Gibraltar, for the marketing of tourists in Gibraltar, is peanuts compared to what other small territories with tourism are spending. If they pay peanuts, as the Minister for Tourism must know, they get monkeys and that is what we get in terms of traditional tourism. It does not exist. £200,00 or £300,000 a year is nothing and all I said yesterday, and I maintain it and we would have done it had we been in Government, is just shave a little bit off the top of the cost of New Harbours and have invested that money in a proper..... Just like Malta and Cyprus and all these people who are obviously fools like

me do. Everyone is a fool except the Government Members. I am sorry, it just does not wash.

HON J PILCHER:

I do not know what is left for the Hon Mr Vasquez to say. To take the investment side I think the point was made last year by the Chief Minister. The Government feel that the money that we have allocated for marketing and promotion of Gibraltar is the money that the Government can afford and therefore, although I am sure we would like to spend much more money, that is the money that is allocated because that is the money that has been allocated when we skimmed-off the top everything that we could to try and have a budget. The Chief Minister has explained in his opening remarks the "financial difficulties" that we have across the board in trying to get the budget to break even next year. That is the money that we have but it is a misnomer to think, as the hon Member does, that Cyprus and Malta and all the other countries are making major inroads in tourism. They are not. [Interruption] I will pass to the Leader of the Opposition or to the Hon Mr Vasquez the findings of the Conference of Tourism of Small Islands that I have just come from in Bermuda where Malta, Cyprus and all the Caribbean Islands were represented. There were islands of Venezuela and of Chile, the Falkland Islands and most of the small islands were represented in the Conference. The Conference, which I was invited to go by the British Government, was attended, because obviously Bermuda is very important for the United States market, by the Under Secretary of State for Tourism and Travel which is the highest office in the Clinton administration for travel. The Conference, having discussed all the matters relating to tourism, came up with various decisions. One; the importance of eco-tourism in trying to market tourism in the future. Something which we started doing two years ago. The expansion Nature Reserve; that is our impetus towards eco-tourism, to getting people to think that Gibraltar protects its nature and therefore is something which the Conference considers was a plus. Historical tourism as well, Mr Speaker, but the hon Member seems to forget that we have a plan which is a continuing plan. It is not that we pay heed only to St Michael's Cave. It is that for better or for worse, those are the sites visited and which want to be visited by the X million day excursionists that come to Gibraltar. So we have improved those four sites. We are now moving on the 100 ton gun. We have now discussed with the Heritage Trust ways of, perhaps even through volunteer systems because there is not the investment on heritage, to look at Parson's Lodge. We have got, as part of our beautification campaign, to clean-up the city walls. All this is happening, Mr Speaker. Perhaps the Leader of the

Opposition should walk around Gibraltar more so that he can see that these things are happening. Thirdly, the Conference felt that governments should devolve political and policy matters of tourism to the industry. Something which I have just explained to the hon member we have done. That is the recommendation of the Conference. The industry felt that government links-up and government policies and civil service thinking and the fact that a political arm of the government took decisions on tourism, not because it was better for tourism but because it was better for its voters, they felt that that was counter-productive. The mechanism of devolution of the policy-making to the industry was one of the major elements discussed in the Conference. In fact, when I advised them that Gibraltar had already done so I have now got correspondence with Jamaica, with Bermuda, with Borneo and all the countries that want us to tell them how we have done it so that they can then go down this path. The fourth element, Mr Speaker, was that the Conference warned all small islands of the pitfalls of utilising tourism as one of their major pillars, as the hon Member has called it, of their economy. Tourism is increasing, by somewhere in the region of four or five per cent. Destinations are increasing in the order of 25 to 30 per cent. Las Vegas is now looking at attracting family holidays. They are trying to set up a project which is going to be something similar to Disney World so that people can go there with their families and then the adults will go to Las Vegas to play but they are trying to adapt. The whole world is going after tourism dollars. The Conference virtually said to the government of small islands that it would be very dangerous on their part to move down a path where their economy was fully dependent - such as the Cyprus economy and the Malta economy - on tourism. The fifth element was that the Conference pointed to the pitfalls related to up-market tourism. The Conference felt that the only way forward for small islands was to try and go more up-market to try and get more discerning tourists who were prepared to pay more for their stay and get more. We are now having areas like the Soviet Union and China opening-up. We cannot compete. The problem that Bermuda has..... If the Hon Mr Vasquez feels that Gibraltar has a problem he should perhaps get on a plane and go to Bermuda. In 1987, Bermuda had 670,000 overnight tourists. In 1992, Bermuda had 317,000 overnight tourists. More than 50 per cent reduction. This is the problem related to societies that have high standards of living because when we have a recession we certainly cannot compare ourselves to Cyprus or to Malta which are much cheaper. In any case Malta has increased during 1987/1992 from 900,000 to 1 million people but their length of stay has dropped from 14 days to seven days. From an economic point of view, if the Hon Mr Caruana settles for that he certainly is no

economist, because in real terms that means a drop of somewhere in the region of 25 per cent. The Government, as far as tourism is concerned, have decided what our part is as far as the money that we can spend on it. We have decided what we need to do to improve the infrastructure and that is the only thing we can do. We do not believe in getting involved in market forces. I think the hon Member said that a couple of hotels had closed. There is nothing that the Government can do or is prepared to do. All we can do is continue on the path that we are going and let us not forget that tourism is not only made up of overnight tourism which in Gibraltar today is a small proportion. The hon Member will be aware when I table the report; the liner market is up last year, the yacht market is up last year, the day excursion market that dropped in 1991 is up in 1992. Mr Speaker, there is a buoyancy in the day excursion, liner and yacht which there is not in the overnight market. We may have to settle, whether we believe it or not, to being a major excursionist base with, hopefully, a good proportion of high profile, high spending overnight tourists. That is what we may have to settle for whether the Leader of the Opposition believes it or not or whether he thinks that if we put in £3million into the marketing budget it would have made a difference.

A very quick question one of the hon members had asked the Hon Marie Montegriffo on the proposed development at the Victoria Stadium. The Minister is at the moment in negotiation with the developer to ensure that there is an improvement in the facility of Victoria Stadium as a result of the development. I think the Hon Mr Francis mentioned the Environmental Awareness Campaign and I think in general he welcomed it. I welcome his contribution and I have taken note of his points which I will take on board although I will mention some very quickly. On the beaches, the hon Member is absolutely right; we have a problem with our beaches related to the fact that we have had to start dumping on the east side. I assure the hon Member that this exercise has been done with the complete cooperation of GONHS and with the monitoring of the environmental organisations although it is true to say that there are pieces of wood floating around in the beaches and this is something that we are now tackling. The hon Member will see a major improvement certainly for our summer season and we are thinking of hoarding-off various areas so that from the perspective of tourists they will not see. Unfortunately, we have to dump somewhere. The east side is an area which for the reason that we were doing the east side reclamation is..... There is no danger at all because what it is is unseemly to the eye. We are not dumping chemicals or things like that which they are dumping further down the Iberian Peninsula. On green

belt we have a policy, which I think was started by my hon Colleague, the Minister for Trade and Industry. The urban renewal within the city centre, we have a virtual no movement at all of any development and we do not allow any changes in the city centre. We are trying to protect the areas there. It does not apply across the board to everything although, Mr Speaker, we have, as the hon Members know, protected under law two vast areas - Nature Reserve Phase I and Phase II for future generations of Gibraltarians. Taking into account the area of the Nature Reserve compared to the area of Gibraltar I do not think there is any country who could beat us in the relationship between the built-up areas and the non-built-up areas. There is not problems as far as air pollution is concerned in Gibraltar but obviously it could be better. We have already taken on board things like catalytic converters, unleaded petrol and all those mechanisms in order to try and get a more pure air, not because I think we need it in Gibraltar but I think because we need to join the world movement in showing the world that Gibraltar is also environmentally conscious. Coming back to the green belt, it is something that I would like to comment on certainly, not from a Development and Planning Commission which, as the Minister responsible, I chair but as the Minister for the Environment. This is a point made by hon Colleague Mr Baldachino when he said that no Minister is an island and although I may or may not want a specific policy, Mr Baldachino may or may not want a specific policy and that goes across the board there is in the priorities of Government a certain sacrifice that must be done. Whether we like it or not at the end of the day there is a price to pay and that price cannot be unlimited. There are also other problems coming into stream which are taken on board by the Government before a policy decision is taken. There is employment; the state of the construction; there are many elements to that. A letter in yesterday's Chronicle said that now that we have a Minister of the Environment we can now stop the development which I think the Hon Mr Francis referred to, in the south district. The Minister of the Environment has got to look at Government policy in that perspective and it is not a question of whether or not I agree or disagree. It is a question of what the Development and Planning Commission decided. In any case the only thing that I wanted to comment on in the letter is that it is not true to say that the Development and Planning Commission did not take on board the points that had been raised by 1,000 signatories. There was a long discussion and a long look at each and every one of those points before a decision was taken. In any case, this shows that what the Hon Mr Francis was saying a moment ago of perhaps opening-up the planning mechanism so that it works better, perhaps we would take a step down that path

but the end result is the same because in this particular situation, although not Gazetted, the tenants found out about the development. They then wrote to DPC, complained to DPC, they could have made representations to DPC but then DPC perhaps closed doors to the decision. They are now saying that their decision was not taken on board. What they are saying is that what they wanted was not done. It is not the same thing. Whether we have two signatures or 1,000 signatures, there is a mechanism and whatever system we set-up, somebody takes the decision and therefore I think this particular incident does not show what the Hon Mr Francis said that perhaps we should open it up because for whatever reason it was opened up. [Interruption] No, no, people found out and wrote to DPC before DPC actually met to discuss it so their petition, their complaints, were actually noted and discussed one by one by DPC and the decision was taken so an open plan policy would not have changed this particular decision. They now have, as I have advised them, the right to appeal like everybody else has. I am not here to discuss the matters of DPC but I just wanted people to understand that the fact that I am Minister for the Environment or we have the Minister for Trade and Industry or Government Services that does not mean that in a specific instance a Ministry leads. In a specific instance what happens is that Government policies come together and what is good for the Government and Gibraltar is done although of people's perspectives at a specific point in time. I am sure the people who live in Naval Hospital Road where they are going to build the houses in front do not agree that that should be Government policy but that is because there is a vested interest element there which is not the same if one lived in Westside.

The Heritage Nature Commission includes members of GONHS and members of the Heritage Trust and the Government. It is an advisory forum that where things like development planning, heritage matters and buildings are discussed. There is a difference between the workings of GONHS and the Heritage Trust and that is that GONHS, historically, are a volunteer body that have taken on board a lot of volunteer work and do, as the hon Member suggested, all the work themselves on a volunteer basis. This is not the case with the Heritage Trust. In fact there may be some problems, we will see with the Heritage Trust but this is not the concept of the Heritage Trust. The Heritage Trust do not have the GONHS volunteer workers that do things but time will tell. Government are committed to heritage but they are committed to heritage within the framework of what the Government can finance. The suggestion of the Hon Mr Francis is a suggestion that we discussed with a Mr Christopher Terry and the Heritage Trust about two weeks ago where he explained that there are systems in the UK where they get groups of volunteers

related to heritage trust and members of heritage trust and together with the Heritage Trust in Gibraltar this is now being looked at to see whether Parson's Lodge can get a facelift at relatively little cost. Let us not forget that at the end of the day it would be difficult for the Government..... I think the Heritage Trust now accept this. Gibraltar in its three square miles is absolutely steeped in history and heritage and it is not possible for the Government or any other Government that have got a base of 30,000 people to be able to protect that heritage. It is something which I point out to our friends in the Heritage Trust in the UK when they come to see us. The per capita expenditure in the UK on heritage matters is about £2.50 to £3 per person. When we take the budget of the British Government together with the budget on the Heritage Trust and the Board it relates to about £2.50 per head, £3 per head per capita in the UK. If we use that same guidelines and even if we increase that guidelines and say £5 per capita we are going to spend in Gibraltar, it would only be £150,000. With £150,000 we cannot even clean up the walls in Queensway, Mr Speaker. That is the extent of the problem we have with a lot of our heritage in Gibraltar.

There is one comment that I did make relating to the Hon Mr Corby's speech and I will not get involved in that directly because the Chief Minister will be answering that. But possibly one of the most successful finance centres in the world, it certainly ranks in one of the first five, is Hong Kong. Has the Hon Mr Corby every been there? Because I suggest he goes there.

[Hon Mr H Corby: I would probably go there if I were in Government.]

Yes, if he were in Government and he was able to go to Hong Kong some day he will notice that none of the factors that he referred to in his contribution has got anything to do with where people take their investment. In a world of capitalist ideology it is a return for the investor not whether there are..... Certainly fraudulent and corrupt practices, no, but I was referring to other, the unemployment, the illegal workers and the drugs problem. Those problems which are inherent in societies in the world. [Interruption] No, no, I am not for a moment saying that we should not do anything about it. What I am saying is that it is not related as the Hon Mr Corby says for all his years of experience in the bank, to the matters that he has raised. There is only one other point that I would like to make and that is on housing.

There is very little that I can say on housing because as the Chief Minister said I will spend the next two months

looking particularly at the historical way that that has been done and trying to see whether particularly after the contribution of the ex Minister for Housing, the Hon Pepe Baldachino, where he said that circumstances have changed. Circumstances have changed but the way that we have done things have not changed so I will be, over the next two months, looking and putting my own suggestions up to Council to see whether we can get a better framework that does various things which I think are absolutely essential. One is that it takes out of the system the supposed importance of actually getting a ministerial interview. This Minister for Housing will not be involved in the allocation of housing. There will be a committee set up. There is a system set up and that system is the system that will operate the allocation of housing. The Minister will be the supervisor of that system and if something is done wrong then obviously that will come to me. Secondly, Mr Speaker, I think it is also a question of looking at the different committees and the different levels that work in this system and in following the open government, which we always work within, I will be meeting all the bodies like Action for Housing. I will even be sitting-in in various of the housing interviews that my hon Colleague Mr Mor will be giving over the next couple of months to identify what everybody feels that should be. The third point that I have to make is the point that was raised by the Opposition spokesman on housing, the Hon Mr Ramagge, related to the allocation of the Government self-repairing leases and what he terms "key money". Obviously we do not feel that it is key money. We feel that there is a different element and I think we have actually already discussed this publicly. We believe that there are three tiers in the market, certainly as far as the Government is concerned. There is one tier, which I do not think anybody disagrees with, which is MOD Government stock coming back which are prime properties. I do not think anybody believes that we should put £150,000/£200,000 house on to the housing allocation list. Obviously that is put out on the normal 99 or 150-year lease and that is similar to what is done in the private sector. I do not think that anybody believes that there are any changes that we should make on the housing allocation list. The problem is related to what the Hon Mr Ramagge said about what we do with MOD Government stock that comes back which technically, because of size etc, could be used for the housing allocation list, and his claim that we are charging key money. We did this in a trial basis as we announced in the press. We have gone through the trial and the trial has been successful and it is quite the opposite of what the Hon Mr Ramagge was saying. He was saying that by doing what we are doing we are putting a burden on taxpayers. I did not really quite get the thrust of that

but what I can say is that most of the MOD stock that comes back is pre-war and certainly oldish to the point that, particularly the ones that we are getting, are not well maintained and are houses which have got specific problems. By putting them on the self-repair market we do not burden the Housing Department with extra maintenance in a budget that already cannot take it. So every time we have an MOD property, if we put it into the housing stock that would be extra maintenance and the moment we allocated the house the tenant of the house would then come running to the Housing Department saying, "My roof leaks, my windows are broken" so we put it on the self-repair market and the person taking it on is then responsible for his own maintenance. We are not burdening taxpayers in that way. Secondly, what have we done by putting in a premium? As far as I am concerned, two things. One is that it helps the mechanism of deciding who gets it. It helps the mechanism of deciding..... [Interruption] No, I will explain to the hon Member why. If we say that this is a house on a self-repairing lease and we just put it like we did with Elliott's Battery we get 400 people applying for one house. If we go down the path of allocating that house through the housing allocation list we then run into certain difficulties and the difficulties are that not necessarily the person who gets it is the person who is able to maintain it. We have problems of people who have got self-repairing leases because they felt that that was a way of getting a house and having got it they spend the next six months trying to exchange that self-repair lease for Government accommodation somewhere else. What has happened? We have put in a premium mechanism which is a modest premium mechanism. It is not 50, 60 or 70, it is a modest premium of people who are putting in what they think they can put in in order to get that edge on the market and it is going towards a market that is not affecting the housing allocation list or the full list market. All those people who have given small modest premiums are handing back a house. So what we have done is that we have got the MOD property which has not been a burden on the taxpayer. We have got a small premium that the Government can now utilise for Government maintenance, new Government housing. We have also got back four houses which we can now give to the Housing Allocation Committee for housing four new families. So we have actually housed eight families in this transaction. Mr Speaker, I do not see how anybody across the board can say..... If the hon Members are interested I will give them a list of the people who have got the houses and they can see themselves that they are ordinary working people who have put in modest premiums and are handing back their Government houses, Mr Speaker. I will give way.

HON P CARUANA:

Mr Speaker, really I am astonished at the logic of the Minister's argument which appears to be that they experimented with key money.....

[HON J PILCHER:

I have not said key money]

But that is what it is, call it what he likes. Premiums for the giving of tenancies.....

[HON J PILCHER:

Premiums for the allocation of leases.]

I will settle for that, it is the same thing. What he has said is that because they tried it out and they discovered that there are people willing to pay them they are doing it. The reason why the payment of the premiums for the giving of leases was made illegal in the private sector was precisely because there were people in Gibraltar who were so desperate for housing that they were willing to pay premiums.....

[HON J PILCHER:

They are not desperate for housing because.....]

Therefore what the Government is saying is that the reason why it was made illegal when the money was being paid to a private landlord do not apply to making it illegal when the money is going to the Government. Who was being penalised before? Were they just penalising the landlord or were they protecting the tenant? Because if what was done in the law when they made it illegal was protecting the tenant it seems to me that it does not make any difference whether the money goes to the private landlord or whether it goes to the Government. The fact of the matter is that in Gibraltar the Government have consistently criticised the charging of anything other than rent for the giving of leases. The proof of the pudding is in the eating, that long before they came into Government this practice was already rendered illegal under the Landlord and Tenant Ordinance which imposed a heavy fine for any landlord that dared to do what.....[Interruption] What it is not illegal?

[HON CHIEF MINISTER:

I will answer the hon Member. He does not know what he is talking about. He will get the answer.....]

Of course I know what I am talking about. There is section 33 of the Landlord and Tenant Ordinance that says that in respect of tenancies to which the Ordinance applies, it is illegal to charge a premium except in certain circumstances. One of those circumstances was if the lease that was being given was for more than 60 years but even that was repealed by them. Sub-section 34(9) is no longer in the law and all that we are saying is that basically what the Government is now doing in relation to any houses that it chooses to, is if they are pre-1954 or whatever the date now is, given the 40 year moving target, if the Government does it in respect of any property that would be captured by that, they are in effect doing what would be illegal if the same thing were done by a private sector landlord. Of course it is not illegal for the Government because the Government is not bound by the terms of the Landlord and Tenant Ordinance but even the Government will appreciate that if something is rendered illegal because it is considered to be a socially and morally reprehensible practice then it is socially and morally reprehensible whether it is done by the Government or whether it is done by a private landlord and whether or not the law applies to the Government.

HON J PILCHER:

The legality of the matter is something which we have already explained but I think the Chief Minister will deal with it. The matter is quite clear. We got four houses from the Ministry of Defence. We have allowed four people to better their position and go from the Government housing stock to a self-repairing lease. In the process we have obtained a modest amount of money which will help Government in maintenance of the existing housing stock and on top of that we have ended up with four houses that will now go to the Housing Allocation Committee so I do not know what the hon Member is on about. Mr Speaker, I have already explained the reason for the premium and whether the hon Member wants to take the explanation or not is entirely..... [Interruption] Mr Speaker, that I think covers it although, as I said, from a housing point of view, the Opposition Members will have to give me a couple of months and then at the next House of Assembly in answer to any question, I will then explain what my thinking is and how hopefully I will run the housing allocation scheme. Thank you, Mr Speaker.

MR SPEAKER:

It is too late now to call the next speaker. Before we recess, I would like to draw attention to the House on a point of order. The first one is the question of

privilege of the House and of members. This means that freedom of speech is allowed so that Members can discharge their duties but, of course, like with everything else there is a responsibility on the part of the Member to temper restraint with freedom and if this is not carried out then the Speaker has to intervene. Equally, on the question of parliamentary language, no Member can reflect in his speeches on the character or conduct of another Member. If he does, or if there is any reason why he should try and criticise the conduct of the other Member, then he has got to do that in a substantive motion, having given notice. There again the Speaker will intervene and probably ask the speaker to withdraw if the language is unparliamentary. The decision of what is unparliamentary rests entirely with the Chair.

HON F VASQUEZ:

Mr Speaker, I just want to record the fact that the circumstances in which this parliamentary language arose was in the circumstances of a question put by.....

MR SPEAKER:

I was not referring to that. I am just trying to make sure. I am just giving a stitch in time because I can see that this could develop when we start having the next contribution and I have got to draw attention to the Members of the situation.

The House recessed at 1.00 pm.

The House resumed at 3.10 pm.

HON F VASQUEZ:

Mr Speaker, I want to start my contribution this afternoon by replying to the opening remarks made by the Hon Mr Pilcher in his address shortly before lunch today when he launched into a general attack on the performance of the Opposition, generally. This really amounted to what I considered to be a fairly extraordinary statement which, thanks to my hon Friend Mr Francis, for adopting a rather gentle approach for the Government and castigating the Leader of the Opposition and the Hon Mr Corby for daring to criticise the Government in a rather more aggressive way. As far as I can judge, what the Hon Mr Pilcher was saying really amounted to three points. One, was that we have a death wish, that somehow we want everything to go wrong in Gibraltar. Two, that we criticise the Government for the sake of criticising and the old chestnut re-emerged that we do not have any alternatives and, three, that we make it a point of spreading rumours of corruption etc. I want to deal with these points, Mr Speaker. The allegations really raise quite interesting points about the role and the nature of opposition politics. I am going to answer them in turn. The first thing that I need to say is that, as far as I am concerned, the role of the Opposition in this House is precisely to analyse and criticise the performance of Government and to do everything it can to get itself across to that side of the House. I do not know where, Mr Speaker, this new idea has emerged that somehow the Opposition are supposed to encourage and praise the Government. In all my experience I never heard Mr Kinnock praising Mrs Thatcher or Mr Aznar praising Mr Gonzalez or indeed in all the time that I have followed local politics in those years, I never heard the Hon Mr Bossano as an Opposition Member praising or supporting the Government of the day. I am afraid that if the Hon Mr Pilcher wants praise, he is going to have to find it elsewhere because we in the GSD are not going to give it to him in this House. In that context perhaps it would be helpful to analyse the role that the GSLP adopted when they were in opposition. Mr Pilcher has spoken about a death wish. We have no desire and we certainly take no pleasure in seeing what we consider to be the failure of the Government's economic plan. We take no pleasure in seeing Europort empty or seeing 900 unemployed or seeing the New Harbours looking like the stranded white elephant that it is. But the point is that we always said these things were going to happen and now that they have, we have no intention of keeping quiet about it to make the lives of Ministers easier. Talking of death wishes, I want to recall the tactics the GSLP adopted in opposition because I think it is fair to reflect that whilst the GSLP were in opposition they

really conducted the business of opposition not from the House but from the trade union movement and they used the trade unions to harass and bully the Government of the day at every turn; to make the job of the Government of Gibraltar for those four years, between 1984 and 1988, absolutely impossible and they succeeded in doing it. For the GSLP in government now to accuse the GSD because it is launching criticisms of the Government, of a death wish, I think is a little hypocritical. On the question of the alternatives, that is the old chestnut, because whenever we criticise Government, Ministers stand up and say that we are criticising Government but we do not have any alternatives. Again, let us analyse what the GSLP did for the four or so years that they were in opposition. Did anyone ever hear a constructive or suggestion emanating from these benches between 1984 and 1988? I certainly cannot recall one, Mr Speaker. What I do recall is the secret economic plan and as far as I am concerned we are still waiting to see what that secret economic plan was. Here we had an Opposition which claimed that they had the answer to every ailment that the Gibraltar economy was suffering at the time but they were damned if it was going to be given away to anybody. They did not even divulge it to the electorate at the time of the 1988 elections. As far as the GSLP were concerned that was their plan and they were damned if they were going to make any constructive suggestion by giving it away to anyone. We for our part consistently criticise Government and we tell them what they are doing wrong time and time again. In fact, in the fullness of time, when I finish my address, the Government Members will hear me criticise the Minister for Trade and Industry and the Minister for Tourism in their performance. That is our job. We criticise. We say we can do it better. At the end of the day, Mr Speaker, it will be for the electorate in 1996 or earlier to decide who they want to take over the business of running this community. Finally, on the question of the rumours that the GSLP Government allege that we make it a point of spreading, let me put one point on the record very clearly on behalf of the Gibraltar Social Democrat Opposition. For as long as there is malpractice in Government, the Opposition will continue to draw attention to it, will continue to make an issue of it, and will not shut up about it. So I am afraid for the Government that for as long as the Government continue to raise and to spend more than £30 million of taxpayers' money every year without accounting for it to anybody, the opposition party will continue to make an issue of that and to criticise Government for malpractice. For as long as the Government refuse to put Government contracts out to tender and consider for a moment what fertile ground that practice is laying for corruption, until the Government

open up the tender process we are not going to shut up and we will carry on making an issue of it. For as long as Ministers involve themselves intimately with local businesses and local businessmen to do everything but go to bed with them, this opposition party will not shut up. We want to know what is going on. What transactions are being formed between Ministers and these businessmen that no one ever finds out about. Who is being paid for what? We think we are entitled to know and we will not shut up about it. For as long, as the Government keep their involvement in private companies secret; why set up this network of private holding companies, we have no intention of shutting up and we will carry on casting slings and arrows and aspersions at that side for adopting that practice. For as long as the Government refuse to re-incorporate the Public Accounts Committee to give the Opposition the opportunity of scrutinising Government accounts as was intended by the Constitution of 1969, the Opposition will not shut up and will carry on criticising the Government. For as long as Ministers refuse to answer our questions as to what has happened to the equipment and assets of private companies which were the property of the Government of Gibraltar, such as Gibraltar Ship Repair Ltd and Gun Wharf; we will come to this House and ask questions. What happened to these assets? We know they have disappeared so will the Government please come and account to us what has happened to the hundreds of thousands of pounds of assets that these companies used to own. We are not given explanations and we will not shut up and we will carry on asking questions and harrying the Government as to these points. Indeed, Mr Speaker, for as long as a Minister is specifically accused in a national newspaper of involvement in massive fraud and he refuses, at the invitation of the Opposition, to take that newspaper to court, if necessary as was suggested by the Opposition using Government funds, to defend his own good name and the name of the Government and he refuses to take that step; he refuses to clear his name in public; we will not let the issue drop. We will carry on demanding explanations and harrying the Government. So I am afraid for the Government that we, the Opposition, have no intention of stopping from asking these questions and to raise all these issues. Government, cannot expect to run the public affairs of Gibraltar as if they were running a corner shop and expect to walk away from it with a clear nose. It is our job, Mr Speaker, to harry and to demand explanations and to find out what is going on and we will continue to discharge our duty by doing so. Since the Minister has raised the question of casting innuendos, let the Government Members be very clear that we in the Opposition are not going to sit back in the House and listen

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to asides about the property ownership on this side, of houses in Sotogrande. I ask this question: what, by making those remarks, are Ministers doing if not doing the very thing they are accusing Opposition Members of doing, ie. casting innuendos and casting aspersions. Let me make it very clear, once and for all Mr Speaker, nobody in the Opposition owns any property in Sotogrande but I think we.....

MR SPEAKER:

There is no harm at all in owning a house in Sotogrande.

HON F VASQUEZ:

That is not why the points are made and we are very clear, Mr Speaker, that these aspersions are cast aside to make: "But these right wingers, these people that are not concerned about Gibraltar, all they are interested in is going back to their house in Sotogrande". Let me put it to the Government Members that certainly none of us own houses in Sotogrande but we are interested to know what properties or holiday homes abroad the Government Members own. One day we may be wanting to find out where these properties are owned and how the Government Members have come to afford them. Let us call a spade a spade, Mr Speaker. We have every intention of continuing to do our job and nothing the Government Members say is going to deflect us from our duties as we can see it.

Finally, in reply and to summarise, I am afraid that if the Government want a cuddly, cooperative docile Opposition, they are not going to find it from the GSD, Mr Speaker. Perhaps it is unfortunate for them that the GNP a year and a half ago did not secure these seven seats but unfortunately for them we do not consider ourselves to be the GSLP second eleven as other political parties in Gibraltar might do. It is our job to dig and to scrutinise and whether the Government Members like it or not we will continue to do it and furthermore whether the Government Members believe it or not there are actually many people in Gibraltar who take courage from the fact that this party stands up and makes these points publicly because no one else in Gibraltar has the determination and the courage to do so, Mr Speaker. The Government have succeeded in silencing everybody else up. This party is not going to shut up and this party will carry on investigating, scrutinising and digging the affairs of the Government. That is my reply to the points that the Hon Mr Pilcher made at the opening of his address.

Turning now to the question of tourism and to the Department of Trade and Industry which are my shadow briefs, Mr Speaker, I had similar thoughts as the ones that crossed the Hon Mr Pilcher's mind as I sat through the several hours of debate that we have had so far on the Appropriation Bill. I agree with Mr Pilcher when he says that really this debate is the annual equivalent of the American state of the nation address. This is where we all sit down and look at the progress of Government; look at every aspect of Government policy. I listened to the Chief Minister make his address which I can only describe as being rather low key; certainly more low key than previous years. The Chief Minister has this year not made any predictions as to economic performance; as to how smoothly everything is going. He limited himself to what I consider to have been an internal house-keeping routine. He has told us that he has looked at the books, everything is balanced and that everything is progressing along nicely. I have sat here quietly and heard all the different Ministers explaining how well all their individual departments are functioning. It came to the point when I felt almost anaesthetised, where I felt myself being lulled into a sense of security that in fact everything in Gibraltar was alright that we do not have any real problems, that somehow we will just muddle through and everything will be alright at the end of the day. Really, perhaps this is indeed the perception of the Government members but certainly I have found in the course of this debate that I almost pinched myself to convince myself that the Gibraltar they are talking about is the same Gibraltar that I have been living in for the last twelve months. Nothing of what I have heard yesterday and today in the House corresponds to my own experience of what is happening in Gibraltar. The interesting thing is that there was a time when the Government Members would perhaps have felt the same way that I feel today. The impression I get is that Ministers have become so cocooned in their important offices; their teams of fawning hangers-on and yes-men who hang on to every word they say and their arrogant sense of power that in some way they have lost touch with the reality of what is going on in Gibraltar today. I sit in my office week after week and I sit in my GSD surgeries which the Government Members think are so amusing and have laughed about so much in the past and I get a very different picture indeed of the state of the nation today. I see a picture of growing social depravation. Of at least 600 unemployed Gibraltarians with no adequate unemployment benefit to see them through from day to day, where there has never been unemployment in Gibraltar before. We have only had the unemployables unemployed in Gibraltar before. Never before in Gibraltar have we had unemployment of people with real

and pressing financial difficulties; of people who do not know how they are going to feed or clothe their families. Old people who cannot pay their electricity bills; sick old people who do not have an Old People's Home to go to because we do not have one in Gibraltar. Of young people who have left school and have written forty job applications and have not had a single reply and of young men learning that time spent studying is time wasted because the only job they are going to get in Gibraltar is smuggling tobacco. Of increasing incidence of drug abuse in Gibraltar and it must be said, of businessmen who are tearing their hair out because their business has failed because they are not part of the in-crowd, they are not one of that clique of businessmen who seem to get all the business emanating from Government. These Government contracts that are sealed behind closed doors and no one else seems to find anything about. In all the hours that I have spent in this House over yesterday and today, I have not heard any of these problems addressed.

Mr Speaker, I remember the enthusiasm and the hope with which Gibraltar in 1988 embraced the new GSLP Government. The Government that we were told at the time were going to blow away the cobwebs, introduce dynamic forward-thinking, open Government. There is an irony, the promise was of open Government in 1988. The Government of the Hon Mr Bossano's secret economic plan, the promise of the stability progress, growth and financial security. I think how depressing looking across across the floor today that that team that promised so much has delivered so little. The team that promised so much radical change has so quickly become as complacent, as detached and as arrogant as their predecessor Government. The depressing factor is that although we had an ineffective Government between 1984 and 1988 and for several years before then at least in those days we had full employment. By contrast, in the course of this debate we have heard the Chief Minister confirm that we have 600 Gibraltarians unemployed, as if it was the most ordinary thing in the world and as if the Government were doing exceptionally well in that only 600 Gibraltarians were unemployed. I pose the rhetorical question: what does the Socialist Labour Party plan to do about the unhappiness and the suffering which is being experienced in Gibraltar today? What is the secret economic plan that the GSLP promised us in 1988? Where is the economic strategy? In the course of his address this year the Chief Minister has offered us not a glimmer of hope. We know that the supply side is now looked after. We know that the Government have spent tens of millions of pounds getting the infrastructure sorted out. So we can see

that the first half of the policy is in place. He has looked after the supply but when are we going to have the demand? What is going to come into Gibraltar to fill in Europort, to fill in the New Harbours, where is the industry? Where are the jobs going to come from? We have heard the Hon Mr Michael Feetham is going to be in charge of marketing Gibraltar but we were told this this time last year that everything was ready and that the marketing was in place but we still are none the wiser as to where the jobs that we need to get those 600 unemployed Gibraltarians back to work are going to come from. I know that the Chief Minister is going to retort in reply the old chestnut that we hear every year. Yes, here is the GSD, they are criticising but they come up with no solutions. That the GSD is simply crying wolf again. Let me repeat, Mr Speaker, that in all the years that the present Chief Minister was in Opposition he himself came up with no constructive policies. He only spoke of secret economic plans and as I have said I still wait today to learn what that secret economic plan is. There have been structural changes in the economy, we have lost the MOD. The MOD is run down to a great extent. We have lost the PSA. We still are no wiser as to what the GSLP proposed by way of reconstruction for Gibraltar. What new jobs are the Gibraltarians going to turn to? Where is the work going to come from? I am no economist. The Chief Minister tells us that he is but I am not clear as to what exactly his economic qualification is but I am told that the public debt is £92 million. It does not take a brilliant mathematician to see that that is more than £3,000 of public debt per man, woman and child in Gibraltar. It is more than £6,000 per taxpayer in Gibraltar of public debt. I am also told that quite apart from the official public debt there is off-balance sheet borrowing through Gibraltar companies which may amount to as much as £20 million which makes me even more nervous. In January 1992, the Leader of the Opposition suggested in public to the Chief Minister that we had acquired a debt that the Government owed in the region of £100 million and at the time the Chief Minister blew his top. He tore a strip off the Chief Minister for daring to frighten people into thinking that in fact the Government debt was so great. Here we are today. The Government debt of £92 million plus off-balance sheet borrowing, which we do not know because the Hon Mr Bossano conducts his affairs in the way that he does, of, we suspect, in the region of a further £20 million. It does not look very promising, Mr Speaker. The signs, it has to be said, are not good and we have heard no suggestion from the Chief Minister as to how this Moses, this economic guru is going to lead us to the promised land out of the mess that we are in. To come back to the suggestion, as I am sure we will get, that the GSD

offers no alternatives let me make one point. The fundamental difference between the GSLP and the GSD is not one of policy on economic matters. There are only a limited number of options that are available to Gibraltar in terms of developing the economy. No one is going to dream up some miracle cure for this. It is a question of getting the product right and of marketing properly. It is all a question of methodology. It is not a question of the GSD being in a position to come up with some miracle cure which is going to come and solve all our problems in one full swoop. We appreciate that there are severe problems facing Gibraltar but we know that in order to cure them we have to set about the methodical marketing of Gibraltar and the implementation of a proper economic and marketing plan. It is the view of Opposition Members that the Government are simply incapable of maintaining the consistent policy of economic development that is required in order to pull the coals out of the fire in Gibraltar. The Government policies, in our view, are riddled with inconsistencies and contradictions.

Clearly, the most important thing for Gibraltar at present is to get its act together as a reputable finance centre in order to attract operations and to attract inward investment into Gibraltar to get a spin off; to get the economy back on its feet and to fill up all the empty buildings we have in Gibraltar. Let us analyse what the Government are doing about it and let me give the House examples of what I consider to be the inherent contradictions and inconsistencies in the Government's policy. The first one I would like to make is that of course the Government are trying to market Gibraltar as a reputable jurisdiction for the conducting of offshore business. Yet, the Government allow, if not actually encourage, the wholesale smuggling activity which is going on from Gibraltar day in day out; smuggling which we are told is tobacco but I think which every sensible person in Gibraltar also knows is camouflaged to a very substantial amount of drug smuggling which is being conducted from Gibraltar and if anyone tries to pretend it is not happening they are hiding their heads in the sand. It is true. We know it is happening. The police are finding more bales discarded. Every week we see people earning huge sums of money and we know. We have to face the reality that the good name and the good reputation of this jurisdiction is being tarnished by the smuggling activity and that it is simply impossible, I suggest, to mount a proper reputable finance centre in these circumstances. I also make the point which the Leader of the Opposition has already also made at some length, that bearing in mind that we need to get our act in order and we need to get our

reputation off the ground, we consider it a serious mistake that the Hon Mr Michael Feetham, whose reputation has been assailed, to be conducting that marketing campaign. I put it no higher as my hon Colleague the Leader of the Opposition has already dealt with this point. One only has to pick up an international newspaper to see the things that are being said about Gibraltar internationally; to see that the Government are simply not getting it right from day one, from the first square, from the first move in trying to establish Gibraltar's reputation as a reputable offshore finance centre. The second inconsistency, and I am going to give various examples. The Chief Minister then goes around the world in his trips marketing Gibraltar, doing what he can to bring business back to Gibraltar and he tells the world that we are the thirteenth member State of the European Community. [Interruption] Well, he says this and yet here we are, two or six years after the GSLP were elected and we still are no nearer being able to get UK clearance to administer certain EC Directives that we consider essential for the proper management of the finance centre ourselves. Britain is still telling us we have got to sort this out; this is not clear yet. So whatever the Chief Minister says, clearly we are not the thirteenth member State. The claim is absolutely absurd in the first place but the point is that he goes abroad and he tells people to come to Gibraltar because we can do whatever we want. That we can enact any Directive as we are part of the European Community. That they can just come here and we will sort out anything that they want. But he has not been able to deliver. Baltica have found out at their own cost and this irresponsible overselling of the attributes of this jurisdiction are doing nothing to help the marketing and the selling of Gibraltar as a viable place to do business. Then, the third point. The Government and the Chief Minister have often repeatedly said that we need a well-ordered finance centre and that all the professionals from every corner, everyone in Gibraltar has got to pull together and pull in the same direction. Yet it has to be said the Government arrogantly take advice from nobody and quarrels with everybody. Only in the last month we have seen - I am dealing specifically with finance centre related business - the Government have a public brawl with the Association of Trust and Company Managers, with the Bar Council, which the Chief Minister wrote off as a vitist, self-interested and unlawful because it happened to disagree with something that he had done, and with the Bankers' Association. The Chief Minister went to a dinner last week and had the temerity to stand up and tell all the professional bankers in Gibraltar that he could do their job better than they. Here we are fighting amongst ourselves in Gibraltar and there are people

overseas who are looking at us and they are our competitors and are laughing at our expense. The fourth inconsistency; the Chief Minister says time and again that we are part of the European Community as thank God and quite..... [Interruption] Yes we are part of it. We are not a member State but we are certainly part of the European Community. He says that we are a responsible territory within the EC and we are trying to market ourselves as a finance centre within the EC. Yet, at the same time we see the Government enacting several pieces of legislation designed simply to drive a coach and horses through EC Directives as if the EC was going to idly sit by and watch Gibraltar steal all EC business from under its own nose. I am referring specifically to the International Entities Ordinance and to the Gibraltar 1992 Companies Ordinance, and other enactments of that nature. These enactments, which the Chief Minister says are designed to take advantage of our niche to develop a little corner for us from which we can develop our own business. All that they are doing, rather subtly is attempting to drive a coach and horses through EC legislation and it is the view of the Opposition that the EC Commission is not going to sit idly by and watch this hole being blasted in EC Directives from this southern tip down here. It is not going to happen and that it is simply not going to work. Either we have to decide we are good responsible members in the European Community enacting EC Directives and doing what we can to find business for ourselves within the Community or we are not. We cannot have our cake and eat it. We cannot on the one hand say we are members of the EC but on the other hand say that we are going to enact all these bits of legislation which is going to enable to blast a hole in all these Directives emanating from Brussels.

Let me get to the industrial park. The fifth point. This Government has spent £30 million building a light industrial park known as New Harbours. When anyone with his head on his shoulders can see that we do not have any light industry to Gibraltar. We have never had. We have no tradition of light industry in Gibraltar. We have no experience in the workforce for light industry. We have exceedingly high labour costs. We have exceedingly high overheads in Gibraltar. We do not have local entrepreneurs that are attuned; that are philosophers to enter into light manufacturing. So what on earth is that light industrial park doing? The Minister for Trade and Industry goes to China, what is he going to bring back from China? China has got the lowest labour unit cost in the world. I have asked the Minister this question on several occasions. What light industrial manufacturing processes is the Minister going to

bring to Gibraltar to bring employment? We have spent £30 million building the factories. What are we going to bring here? And I am still waiting for a reply, Mr Speaker.

Then we come to the Minister for Tourism who says or has said in the past that he wants to make Gibraltar the pearl of the Mediterranean. That he is going to make this the new Monte Carlo, a paradise of high networth individuals and again there have been glaring contradictions and inconsistencies and they are just there for everyone to see. We only have to take a look round and my hon Colleague the Leader of the Opposition was drawing this to his attention this morning, to see that the place is looking like a dump. Here we have the Minister of the Environment. He looks incredulous. Has he walked round the east side of Gibraltar in the last few months? Has he seen what it is looking like? Has the Minister walked round Gibraltar? Has he looked at the North Mole? Has he been to the south district? The place, unfortunately, looks like a dump and the point is this. Instead of enacting planning laws to try and protect our heritage, instead of having a coordinated town plan to try and beautify the place, he just goes knocking down our heritage at the drop of a hat, completely ignoring the town plan and the Heritage Ordinance. Nothing will stand in the way of developers in Gibraltar. Developers have been allowed to run riot. The Minister refuses to implement a proper open planning law to protect the environment and then the final irony, Mr Speaker, the Chief Minister then says that anyone who does not want to queue should not go to Spain. He was once quoted as saying that. That is all very well and we have to hold on to our policy and we are not going to give in to Spain over everything but how is that designed to attract high networth individuals to come and live in Gibraltar? What sort of environment are we providing for these high networth individuals to come to Gibraltar? When is this place ever going to be the Monte Carlo of the western Mediterranean? Does the Minister really believe that we are becoming a Monte Carlo. I think he better go to Monte Carlo and have a good look round and appreciate that he has got a lot of work to do before we are anywhere near that standard. He is nodding his head and obviously he still believes it. I see fundamental contradictions and inconsistencies in that, the Minister obviously thinks he knows better. Carrying on with the Minister we see that the Government excel themselves as a sophisticated jurisdiction and yet we see time and again it allows Ministers constantly to interfere in the administrative process. It does not let civil servants do their jobs. We see a constant merging of the functions of government. Ministers think that they are there not just to

lay down the law, they think they are there to run their departments and to run the implementation of the policy and to tell civil servants how to do their jobs and to interfere in individual cases. They pick up a telephone and say "No, you cannot give that licence, he is not going to get that licence. Do this because I am telling you to do it". They might think, Mr Speaker that that is the way to run a sophisticated jurisdiction. Let me tell them it is not. That is not what Ministers are supposed to do. Ministers under the separation of powers, in the whole notion of the separation of powers, the administration and the executive are supposed to be two different things. Ministers are not supposed to interfere with civil servants in the conduct of their duties. As I have already said, the Chief Minister goes abroad and goes to conferences and tells people there that he is in a position at any moment that anyone who comes to Gibraltar and needs a particular law, to pass the regulation. He can sign a bit of paper and tomorrow that client if he has got enough money will have the law that he needs. It could be that the Chief Minister really believes that in doing that he is impressing potential investors as to what a sophisticated jurisdiction we have. He is doing nothing of the sort. All he is convincing them is that we have a banana republic here. In the same way that tomorrow he can sign a bit of paper changing the law and giving them something, the following day he can sign a bit of paper taking it away. That is simply not the way to market this jurisdiction. We have to get this act together and I could go on for hours, Mr Speaker. The point I am making is that time and time again the Government get it wrong and the policy options available to get our economy moving are limited. It must be said; we have to find a way, we have got to get our UCITS legislation in order, we have got to attract trust managers and the big players out there. We have got to get the finance sector working, we have got to get something working in the light industrial park, I do not know what. We have all agreed as to what has to be done. What we disagree is how to go about doing it and the point is, and I speak with every conviction and with every confidence, that Opposition Members could do it a great deal better than the Government Members and that is what the policy difference between the two parties comes to.

Turning to the individual departments which I am shadowing and starting with tourism; having heard the Minister for Tourism make his contribution this morning, I was left with exactly the same thought that the Leader of the Opposition made and that is why do we need a Minister for Tourism at all? What the Hon Mr Pilcher said..... I can see him shaking his head. He is agreeing with me because basically

all the Government have done is wash their hands of the tourism industry and just given it to the industry and say, "Here you go, you market yourselves". There was a very telling comment at the start of the Hon Mr Juan Carlos Perez's contribution yesterday afternoon. At the very start of his contribution and in reply to the comments that the Leader of the Opposition and in reply to the comments that the Leader of the Opposition had made in relation to tourism, he laughed at the whole idea of resuscitating the tourist industry in Gibraltar and said mockingly that what the GSD was calling was for the creation of a Ministry of Tourism like the AACR. His words were that that was ridiculous. "We have come a long way since then" were the words that he used. In those few words and in fact the Hon Mr Joseph Pilcher has confirmed the sentiments today. In those few words the Hon Mr Juan Carlos Perez summarised the contempt and the disregard of the GSLP for the tourism industry in Gibraltar. As far as the GSLP is concerned it is not a sexy Ministry; they do not want to get involved with it. They have got more macho things to do than actually spend their time trying to sell Gibraltar as a tourist resort. I have got news for the Hon Mr Perez and the Hon Mr Pilcher. In 1989, in Gibraltar, there were 530 people employed in the hotel industry. Three years later, in April 1992 which is the last year that I have got figures, there were 355. By now, a year later, April 1993, I suspect that figure is substantially less because of course we have lost two hotels since then and I would think that the figure was probably between 300 and 315 employed in the hotel industry in Gibraltar. At the same time, in 1988 those employed in restaurants and bars, which obviously are trades allied to the tourist industry, was 327. By 1992 these had fallen to 261. If we put those two losses together, we have lost some 230 jobs in the hotel industry and some 70 jobs in restaurants and bars. That is 300 jobs that the Government have lost in the course of the last three or four years in the tourist related trades. The irony is that figure of 300 is exactly half of all the Gibraltarians that are unemployed in Gibraltar today. That is the extent of the damage caused by the GSLP indifference to this industry. I have been looking through Hansard and at every debate on the Appropriation Bill since 1988 and at every debate the same point has been made by Mr George Mascarenhas, my predecessor and myself castigating the GSLP for virtually killing of the hotel industry in Gibraltar. Nothing has shaken the Government out of their indifference and the last 12 months has seen the hotel industry in Gibraltar hit rock bottom. We have lost, as we already know, two hotels, the Gibraltar Beach Hotel and the Montarik Hotel. We have lost the Hyatt Regency. This time last year

the Hon Mr Pilcher was trumpeting the eminent arrival of the Hyatt. He is shaking his head and my recollection is that he was, he was saying "Here we have the success of Gibraltar's tourist industry". They have pulled out so we no longer have the Hyatt Regency Hotel. Occupancy rates in our hotels have fallen down to 35 per cent in 1991. We do not have the figures yet for 1992. We will get them at the end of this year but I suspect they are no better. That 35 per cent occupancy rate in Gibraltar hotels in 1991 is the equivalent of a 40 per cent fall on the figures which existed in 1988. It may be 31 per cent now but 32 per cent are the figures that I have. That is a 40 per cent drop in the four years between 1988 and 1992 that the GSLP were in power. It is my suggestion that the results of the five years of GSLP administration is that we simply no longer have an overnight stay tourist industry in Gibraltar. We have hotels and we have incidental visitors but then so do Scunthorpe and Walsall and Birmingham. People are passing through and people use hotels. We no longer have a tourist hotel industry in Gibraltar. Gibraltar is simply no longer a holiday destination in the real sense of the word and the fault; it is the view of the Opposition, rests squarely on the shoulders of the Government. Clearly tourism has simply not been a feature in the Chief Minister's great economic plan and the local economy has suffered the consequences in the face of the Government's inactivity and indifference. The Hon Mr Pilcher says that there is a policy, that Government are doing a fine job. Well, I heard his contribution this morning and I am still no wiser as to what exactly is the Government strategy for attracting tourists to Gibraltar. I am not aware that there is a policy. We still do not know who they are hoping to attract here. We do not know what their marketing policy is. We do not know what the geographical catchment area is. We do not know to who they are addressing the marketing policy. In fact, there is no marketing policy as far as we are aware. We do not know what type of tourists they are trying to attract and we do not know how they are hoping to attract them here. The Minister simply has no answers to any of these questions but the fact is that the Minister does not even have proper tourism advertising budget. We see under Head 14 of the Estimates which comes under the Secretariat, the amount of £450,000 put aside for tourist and other promotions. We had this argument last year and I do not intend to have it with the Minister again this year. It is not at all clear from there that in fact whether there is a tourist marketing budget at all. We see 'Tourism and other Promotions' but that really means the GIB offices and any other promotions in which the various Ministers might indulge. The fact is that there is no concerted marketing policy. I am not aware

that the Government have retained an advertising agency to market Gibraltar in the same way. The Minister said it is rubbish. In my experience we have seen figures. We have seen Malta, Cyprus, Sardinia, all these relatively small Mediterranean destinations effectively launch advertising campaigns and marketing themselves. We simply have no marketing set-up for the advertising of Gibraltar as a holiday destination. What is clear is that the advertising that has been done in conjunction with the GIBDB for the shopping experience in Gibraltar weekends simply is not enough to sell the local tourist industry. Gibraltar needs a concerted media marketing campaign and we are simply not going to get it. Quite apart from the marketing, what is the total tourist-related budget that the Government has set aside? What expenditure is budgeted for the tourist product in Gibraltar? That comes under 'Tourism and the Environment'. It is a drawing from the Improvement and Development Fund. It amounts to £235,000 of which £100,000 is spent in cleaning the beaches. There is museum refurbishment, planted areas and refuse containers. £50,000 on refuse containers which somehow is going to help the tourist product. That is total of £235,000 out of a total Government budget in excess of £100 million. We have £53 million appropriation from the Consolidated Fund. We have £19 million appropriation from the Improvement and Development Fund and, as we have already heard, there is some £30 odd million swimming about in the Special Fund which the Chief Minister feels he does not have to account for to this House. That is in excess of £100 million that the Government plan to spend this year and of that amount they are spending exactly £235,000, less than a quarter of 1 per cent of Government's annual budget on improving the tourist product in Gibraltar. Mr Speaker, the Leader of the Opposition has covered this ground, it is pathetic. The Hon Mr Pilcher has talked of creating the pearl of the Mediterranean; the new Monte Carlo. I do not know how he plans to go about it. I do not know what he is going to show the tourists, whether it is the rubbish tip at Miami beach or the lorries parked by Eastern Beach or the no beach at Catalan Bay beach; there is another beach thanks to the reclamation, or the state of Sandy Bay. These sites generally are a disgrace. We have passengers at the North Mole arriving and having to pick their way through what looks like an oil refinery after an explosion. That is the first thing that arrivals on liners see of Gibraltar; the North Mole which looks like a terrible pit. Already we have seen liners refusing to call. The Canberra, I understand, refuses to call at Gibraltar or has failed in the past to call at Gibraltar because of the state of the North Mole. [Interruption] Well, that is the information that I have

and whether the Canberra is calling here or not, the fact is that I cannot believe that any tourist that arrives in Gibraltar, gets off a liner and sees the state of the North Mole is ever going to want to come back. We know that first impressions are lasting impressions and the first impression that a tourist getting off a liner arriving in Gibraltar gets is absolutely appalling. The Government have been in office for five years, what are they planning to do about it? It is a disgrace and it gets to the stage where one sees tourists walking round Gibraltar and one almost feels embarrassed for them, one almost feels ashamed at the state Gibraltar is in. Let me ask the question, what is the Minister doing about all this? As far as I can see he is doing absolutely nothing. He is indifferent and his inactivity is scandalous. Even when the Minister had the work done for him, a few months ago I understand that a group from the GIBDB went to see the Minister with the idea of getting this marketing campaign off the ground to sell Gibraltar as a weekend shopping stop. They did the Minister's work for him, they presented the Minister with a list of plans which they thought are things that perhaps he might want to look at which will help beautify Gibraltar to get the tourist product going. The Minister agreed. I have got them in front of me, Mr Speaker, and of those fifteen points hardly any have been addressed. We have those clothes hanging outside shops and they said "Why don't you do something about the clothes that are hanging outside Indian shops, see if you can stop them doing that?" An excess of advertising signs in Main Street; the relocation of the street market; the urgent need of improving the level of cleanliness and the standard of the coach park; the need to do something about simple things like getting the fountain in Waterport working. The Casemates tunnel; there is a need for a concerted effort in improving various areas at Casemates, Market Place and Waterport.....

HON J PILCHER:

Will the hon Member give way? On a point of fact, Mr Speaker, I do not know the meeting that the hon Member is referring to and certainly I have never seen that list presented to me by GIBDB. I have had various meetings with GIBDB, many of the facts that the Hon Mr Vasquez is saying were matters raised by me with GIBDB and the Chamber of Commerce trying to solicit their support to try and do things on advertising and on many matters. For the sake of accuracy if the hon Member is going to get up and say about a meeting that I had and things that were presented to me he should check that with me first or at least advise me who came to his office to tell him that he has been to my office

to give me that list. That is the least that he could do now.

HON F VASQUEZ:

Mr Speaker, if that meeting was never held I think the Minister has confirmed that meetings were held and various suggestions were put to him amongst which these were. I have not changed anything round. I was told that a meeting had been held. If a meeting has not been held I apologise unreservedly. [Interruption] I do not know what the Minister wants. I know what the Minister wants he wants to know who gave me this so..... [Interruption] I will give it at the end and the Minister can reply. If this meeting did not take place then I retract but the fact is that he has admitted that a delegation came to see him and discussed various things. He may not have the list. [Interruption] The Minister had admitted that a meeting took place and the Minister has admitted that a number of these points..... I will give way.

HON J PILCHER:

Mr Speaker, what I have said and it is quite clear, is various meetings took place with GIBDB, with the Chamber of Commerce, with the trade as part of our policy of open Government. What I am saying is that at no stage were the fifteen points, which the hon Member is saying were presented to me and he has a list in front of him, discussed or presented to me. What I am asking is who in the GBDB came to see me and has said to the hon Member that that is what they presented to me? For the sake of accuracy, Mr Speaker, and if he does not want to do it publicly the Hon Mr Vasquez and whoever can sit together and find out when those points were raised with me.

HON F VASQUEZ:

I was passed this list and told that a meeting had taken place. I am not going to divulge to the Minister who gave it to me because people are afraid of crossing swords with the Minister and I was asked not to. It is as simple as that. So I will not tell the Minister who it was but I will certainly give him a copy of the list if no meeting took place I unreservedly withdraw and I apologise to the Minister but the fact is that these are points that I understand have been brought to the attention of the Minister and in relation to which the Minister has taken no steps whatsoever. To summarise my contribution on tourism, Mr Speaker, and in reply to any allegation by the Government

that this party has no policies, I want to make it very clear that when the Gibraltar Social Democrats are elected into Government they will introduce the following policy in relation to tourism:

(a) prioritise tourism and enter into a policy whereby the policy of all Government departments will be harmonised and prioritise with regard to beautification of the environment, the sorting out of immigration procedures, public health, DTI, all rolled in to getting the product in Gibraltar sorted out on behalf of the tourist;

(b) rationalise all efforts in relation to the marketing and the improvement of the product in Gibraltar;

(c) enter into a concerted advertising campaign to market Gibraltar as a tourist destination and;

(d) start a system of licensing by the new tourist department which will be incorporated; introduce a system of licensing the tourist product in the way suggested by the people who were committees ten years ago.

It is our contention, Mr Speaker, that as a result of these policies within two or three years another 250 jobs would be created in the local economy.

Turning finally to the Department of Trade and Industry and the Hon Mr Feetham's department, it is clear that in the words of the Hon J C Perez tourism is seen as old hat of the AACR type of policies. The Department of Trade and Industry is what I would describe as a sexy ministry for the GSLP, a macho, something that one can really get one's teeth into. I want to know what the Hon Mr Feetham has done over the last twelve years to justify his office which is the size of a small football pitch in Europort. We do not know how much it is costing in rent, he will not tell us or how much it has cost to be fitted out. I suspect and it is the view of the Opposition that, like tourism, this department has had a pretty appalling year. A year of failure and disappointment. I take no pleasure in pointing this out I want to make clear. We see that Baltica have pulled out suffering losses running into tens of millions of pounds in the midst of a corruption scandal in the press and in the midst of a Scotland Yard investigation. We have seen neither Hyatt nor any hospital, nor any other schemes moving into the Europort development. We have seen the Gib Components Factory close down with the Hon Mr Michael Feetham as chairman, owing millions of pounds to its creditors. [Interruption] That is what I understand and no

doubt he will be able to correct me if I am wrong but I understand the bank is owed more than £1 million. Owing also I understand substantial amounts in PAYE which is money owed to the Government of Gibraltar, I think that is right as well and I think the Minister will concede that. I can think of no circumstances in which a Cabinet Minister in England would retain his post in the Cabinet being the managing director of a company that went down owing PAYE, but that is another story. We have no Eurocity, no new industries and it has to be said that in the last year this Department has done nothing to halt the decline in jobs in Gibraltar and the rise in unemployment that we have suffered. It is clear from the Estimates before us that the activities of this Department are winding down in a major way. In the Budget last year this Department drew £6 million from the Consolidated Fund and £24 million from the Improvement and Development Fund making a total budget of £30 million. This year the Department of Trade and Industry is appropriating only £1.6 million from the Consolidated Fund and £9 million from the Improvement and Development Fund making it approximately £10.5 million and as the Chief Minister has already pointed out much of that expenditure, which is being taken from the Improvement and Development Fund, relates to work which has already been carried out last year but for which the bills have been received this year. All of this reflects the Chief Minister's remarks which he made publicly on several occasions that now Gibraltar is ready; that we have got the infrastructural products in place and that the job of the DTI and the Hon Mr Michael Feetham in particular now is to go out and take charge of the marketing. It is with this question of marketing that I want to deal mainly although before I turn to the marketing performance of the Government I want to touch on the whole question of New Harbours. New Harbours, we understand, is now complete. It is now ready, the keys have been handed over and I believe the first tenants have moved in. This development has cost the taxpayer £30 million. More than £2,000 for every single taxpayer in Gibraltar and the first question that has struck the Opposition, on looking at the New Harbours development, is that in fact whether it is worth £30 million, in physical, in bricks and mortar. The impression that we have had from discussions with architects and quantity surveyors is that in fact the Gibraltar Government has not had a particularly good deal. It would appear that we have paid way over the odds for £30 million for a site of that nature. We will never know. We do not have a Public Accounts Committee so we cannot scrutinise how effectively that money was spent. We think that far too much has been spent on that to get in terms of bricks and mortar that have been handed over to the

Government of Gibraltar. We will never know because we are not allowed to scrutinise accounts. We are not allowed to examine the contractors. We are not allowed even to look at the accounts through the Public Accounts Committee which we are supposed to be able to do under the Constitution. The Chief Minister thinks that he does not want that so we will never know. What I want to know and I hope the Minister for Trade and Industry will be able to tell me in the course of his address after mine, is what the point of that £30 million worth of expenditure was? Since its inception this Party has condemned the New Harbours as being over-ambitious, unresearched and surplus to requirements and it is nothing less than another example of the Government's delusions of grandeur. We have a light industrial park in Gibraltar, a spanking new state of the art industrial park, with no light industry and we do not even have a skilled workforce to put into that light industrial park to take part in this light industrial manufacture that the Hon Mr Feetham says he is going to bring to Gibraltar. Again it is another manifestation of the same thoughts that we see time and again in Gibraltar and it seems to me that the essence of the Government's economic policy was to spend lots of money getting the supply side ready and it has to be said that Gibraltar is now in place, it has a certain amount of very useful infrastructure but that is only half of the equation. We have the supply. What are we going to do about the demand? I am still none the wiser, I have heard the Chief Minister today, I heard the Chief Minister last year and he said that now the marketing was in place. In fact I can quote from the Chief Minister's address in the Budget debate last year. His closing words were: "We now have the necessary resources for the next twelve months to promote Gibraltar and bring in customers and we only need a modicum of success in that strategy to be able to achieve a growth in our output from £300 million to £450 million". So he expected over these twelve months an increase in GDP from £300 million to £450 million and he is talking about an increase in output "to guarantee the 14,000 jobs that we have set ourselves as a target of maintaining throughout the term of office up till 1996". So what he was saying this time last year is not that we were aiming for 14,000 jobs in 1996, he was saying that he was guaranteeing; he just needed a modicum of success, "we have got the marketing in place, all we need is a modicum of success and we will have output of £450 million and 14,000 jobs in the economy throughout the term until 1996". Twelve months later it seems that we are no nearer achieving that. In fact, we are now 600 jobs the poorer. We have 900 unemployed in Gibraltar which we did not have this time last year. I want to know from the Minister for Trade and Industry what new businesses he has

attracted to Gibraltar and if he has not yet, what new businesses he expects to attract to Gibraltar. How he is marketing it and what it is that Gibraltar has to offer which is going to make businesses come to Gibraltar and start their manufacturing processes here. I have asked this repeatedly in this House and the Minister has simply said that we did not have anyone yet but we are hoping to get people in the near future. From the perception of the Opposition all that the New Harbours development has achieved in all its hundreds of thousands of square feet of workshops, offices and warehouses, all it has done to date is to relocate existing businesses in Gibraltar, often we understand, against their wishes. These are tenants of other Government premises who are being told that their lease was not going to be renewed, they had to come up to New Harbours. The Minister is shaking his head, no doubt he will correct me if I am wrong but it seems to me that Government is leaning on its own tenants of warehousing outside the New harbours, warning them that when the lease has expired they are not going to be renewed and they better start making arrangements to move into New Harbours. As far as we are concerned that is all that has been attracted to New Harbours and that, in view of this House, has contributed not one job. It has helped the local economy not one iota. I hope I am proved wrong and I look forward to the Minister explaining as to what its plans are, what he hopes to attract and hopefully be able to confirm that in fact he has concrete proposals to bring new industries, new businesses to Gibraltar but as far as I am concerned at the moment there are none and I want to know how the Minister is going to justify spending £30 million on what, if we are not careful, is going to become the biggest white elephant in Gibraltar and will be referred in the future not as New Harbours but as "Feetham's Folly". I think that is what we want to avoid. We need to know what is going to become to that development.

Turning now to the question of Gibraltar's marketing strategy; I have already dealt en passant with this point and I ask the question now: What strategy the Department of Trade and Industry is adopting in the marketing of Gibraltar, in developing a coherent and consistent marketing for Gibraltar as an individual finance centre? We are told that Gibraltar is a major player in the European finance sector field. Well only four weeks ago Mr Speaker, there was a major article in the Financial Times covering the European offshore centres and the first point I need to make is that most of the other European offshore finance centres advertised in the supplement. We have here Cyprus as an offshore centre advertising, Malta's Bank of Valetta; we

have Madeira; all the other offshore centres made it a point of advertising in the supplement. I see no advertisement from Gibraltar there and I think it would have been a good idea to introduce in this important supplement of the Financial Times some sort of advertisement of Gibraltar and I want to know whether this is the sort of thing which the Hon Mr Feetham is going to be doing in the course of his marketing of Gibraltar. Then one has unfortunately to look at the content of the articles and we see that there is an article on Luxembourg which is headed "The cross board and launching pad"; Switzerland "The most popular refuge for funds"; Isle of Man "Fine tuning of Regulations"; Dublin "Haven across the Sea". On the whole it gives fairly good write-ups to all the offshore jurisdictions offering their services except for Gibraltar. On Gibraltar it talks mainly of hiccups on the economic horizon and the whole article, I am afraid to say, and I know we have had this written by Mr Tom Burns who it would appear is no friend of Gibraltar but unfortunately I have mentioned in the course of my address the sort of impression that Gibraltar is giving abroad and the fact is that all the article talks about is evaporating confidence, internal divisions, bad publicity, empty development; the same old story. It does not look good and what I want to know is why at the time that this article came out on 29th April Mr Feetham was in China bringing back Chinese restaurants. I do not know what else he is going to bring back from China. I hope I am wrong... but all he has succeeded in bringing back so far is Chinese restaurants. I ask, why was not Mr Feetham dealing with the important business of marketing Gibraltar as a European offshore centre which is our number one priority? Looking at the whole question of the marketing strategy we know that a couple of years ago the Gibraltar International Business Development Board was formed which is comprised of the professionals in the industry advertising Gibraltar internationally, marketing Gibraltar's products. Who better to do the job of marketing Gibraltar than the professionals themselves? The GIBDB was formed precisely to market Gibraltar internationally on the understanding, the agreement, I understand, maybe the Minister will correct me if I am wrong, that the arrangement was that the Government would match pound for pound any money put forward by private businessmen into the marketing board so it would be a joint effort. The private sector and Government together would put an equal amount of money into the GIBDB with the object of exclusively marketing Gibraltar. That GIBDB has been in existence for a couple of years, it has arranged various conferences and attended at various promotions for Gibraltar, it has put out a certain amount of literature and by all accounts it seems to be doing a pretty good job. The

word now is that the Minister for Trade and Industry has made it a condition of its continued support for the GIBDB no longer that it is a joint venture with private businesses but that it must be his baby. That it must come into the Department of Trade and Industry and that he must control it, that all the information that is coming into the GIBDB has to come through his office and that any enquiries have to be put through him and that he will run the whole show. The reaction of a lot of members of the GIBDB is, "What is in this for me? Why should I pay for the Department of Trade and Industry's marketing? What is the logic of that? Why should I pay for the Hon Mr Michael Feetham, the Minister for Trade and Industry to get all the enquiries referring to him in the same way presumably that all the enquiries from the GIB offices have been referred to him and then see whether any scraps are released which is going to make it worth my while to be a member of his group?" Why? I fail to understand why a body which is launched as a joint enterprise between private enterprise and the Government, the Government should now make it a condition of continuing in that body that they have to run it and the result of that Mr Speaker, I have got to say, is that it is going to kill the GIBDB. The GIBDB is just going to cease to exist because the members are going to say "I'm not paying £4,000 or £10,000, it depends on what kind of membership, per year to be part of a group which is basically the marketing arm of the Department of Trade and Industry. Why should I pay?" and, indeed, why should they pay? It is my prophecy, we shall see in twelve months time whether the GIBDB is in existence. It is my prophecy that the GIBDB will very quickly be wound down because of Mr Feetham's insistence that he must be in control of it. This lust for power, this need to control when it is totally unnecessary. Given that we have the GIBDB and apart from the GIBDB we have heard that the Hon Mr Michael Feetham and the DTI are going to be in charge of marketing Gibraltar's image abroad and marketing Gibraltar as a business and finance centre. Apart from their involvement with the GIBDB, I do not know how that arises and whether that will continue, but I look through the Estimates of Expenditure through the Department of Trade and Industry and I simply do not see a budget for marketing. I do not understand how, if Mr Feetham and that Department which is going to look after the marketing of Gibraltar, it is going to have the means to go about it. Presumably it will come out of the general £450,000 budget under the Secretariat for the marketing of Gibraltar which only confirms my earlier suspicion that in fact there has been left nothing for the marketing of Gibraltar as a tourist destination.

Mr Speaker, I am going to stop now. I was going to mention the question of the way we need to market Gibraltar as a finance centre. In fact the Leader of the Opposition has already dealt with that point; the need for a select committee to actually investigate and decide what our status within the EC is going to be and I shall not touch on it again. Before I finish I just want to touch on three unrelated topics which I have mentioned in the past and which I would like to bring to the attention of Government. These are matters which affect more disadvantaged sectors of the local community. The first one is the question of the taxation of maintenance payments paid to divorced mothers. I raised this question in Question No. 136/92 and the Financial and Development Secretary at the time mentioned to me that the matter was under investigation and that steps would be taken soon to put the matter right. The problem is that divorced women are taxed on maintenance payments made to them for themselves and their children whereas the fathers who are making those maintenance payments are allowed to deduct those from their income. The result is that the tax liability of the father making the maintenance payments is reduced whilst the tax liability of the mother receiving, i.e. the mother who needs it most and is most vulnerable and most needs the money, has her tax liability increased commensurately. It is accepted and recognised that this places an unfair taxation on the person least able to pay and is contrary to the practice in the United Kingdom. It is an injustice that needs to be addressed. The Financial and Development Secretary in November last gave an undertaking that it was being looked into and I would urge the Government to take steps to redress what is an injustice which in England has been put right and it is high time that it was put right in this jurisdiction.

Secondly, the question of legal aid is a point which I have mentioned in the past and previous addresses. We see at page 18 of the Estimates that the forecast outturn for this year for legal aid of £33,200 which is a substantial increase on the amount expended last year of £8,569. That demonstrates very clearly that more and more people are falling into a poverty trap, are finding themselves involved in litigation or prosecutions and are needing to avail themselves of legal aid. It is my experience that a number of divorce and matrimonial cases, Mr Speaker, where the parties need and cannot afford a lawyer's representation. The fact is that when they apply for legal aid, and it has happened in several cases already, they are told that because they are in property of Westside, or Brympton, that as they have property to their name these individuals do not qualify, they are not poor enough to qualify for legal aid.

The fact is that that property which is to their name is nothing more than a debt because that property is mortgaged so it is really not an asset at all. I bring this matter to the Government's attention because there is a system in England whereby people who apply for legal aid can charge their property in favour of the legal aid fund. The legal aid fund then unlocks the value of the property, takes security over the property and is able to award legal aid to the individuals concerned and it seems that that is a scheme which could very properly and very usefully be implemented here in Gibraltar, allowing people who are caught in a poverty trap and who have property to their name, at least to get legal aid, Government to take a charge on this property and an arrangement can be made for the repayment of the legal aid in due course.

Finally, my last point is the question of the Women's Aid Group, which is something that I have raised and is directed at the Minister for Housing, the Hon Mr Baldachino. This group is a group which is dealing with probably the most vulnerable members of our society; married women who have been the object of assaults, who have been chucked out for for the sake of their own self-protection have had to leave the matrimonial home in circumstances of great distress. These cases only a few years ago in Gibraltar were exceedingly unusual. The group was formed, in reply to a growing need, the fact that these cases were increasing, in September 1991 and between September 1991 and May 1993, in only 20 months there were 88 cases that the Women's Aid Group had to take on of saving women who had been physically assaulted and battered in the matrimonial home, taking them out of the matrimonial home and putting them in a refuge. We know Government has already expended a certain amount of money in providing a refuge. The refuge only has two bedrooms and is simply too small. We see that there have been 88 cases. At any one time the Women's Aid Group might have been dealing with three or four cases and that is a battered wife and her children in tow. The Minister for Housing has for many months now been promising another house to the group. For months the group has been told by the Minister that a house can be prepared and will be given to the group. I make this clear on behalf of the group at this my contribution to the Appropriation Bill. I plead with the Government to take every step it can to make a property available for the Women's Aid Group to give them a further refuge and it is clear that there are a number of properties that are being handed to the Government all the time by MOD; Government properties that are laying vacant. It would be perfectly possible for the Government to make one property available to the Women's Aid Group to help them in this very

important work that they are doing protecting these battered wives in these circumstances. Thank you, Mr Speaker.

HON M FEETHAM:

Mr Speaker, I would like to reply to the Hon Mr Vasquez and indeed others in the Opposition. I would say with a little bit of sadness in a way because I am very proud of being a Member of the Government and equally proud of my record in the Government. I feel privileged to be able to continue in the Government doing the best I can to assist in making Gibraltar self-sufficient. I cannot do any more than that. Nobody can expect me to do any more than that. We were voted into office in 1992 on the bags of innuendos and allegations and rumours and we got 73 per cent of the votes. What has happened since is that there is an allegation which today has been described by the Opposition Member who was the last speaker as a massive fraud. Massive fraud! Time will show in fact whether this has been the case or not. The Government have already made their position very clear on the matter and quite frankly I do not intend to go beyond this point. I am leaving that matter for the Chief Minister, whose confidence in me he must be sure of, to reply because there are wider implications of everything that has been said across there. There is a limit, quite frankly, to what people can sustain in all this and question oneself and see whether it is all worthwhile at the end of it all. I have shown a great deal of tolerance and a great deal of patience in everything up to now and time will show. I am going to devote myself in defending the Government's record which is what I have to do, particularly because I have always said in this House since I came into office that what we were doing as a government is not something that can be questioned every year because the changes that are taking place in Gibraltar are much wider than that. They are very fundamental changes. Some of these changes that we are locking ourselves into today are not going to be able to be changed whichever Government is in office in the future. Most of the Opposition's speakers have been devoting themselves to a barrage of some justifiable criticism but the majority of the criticism has been based on a path of antagonism, of bitterness and, quite frankly, unfair, unsubstantiated criticisms or allegations. There are some of the fundamentals involved, I think one will understand on which we must have common ground on; common ground is first of all that Gibraltar must be made self-sufficient. When the Hon Mr Vasquez says to us today that Gibraltar never had unemployment, that we have had unemployables, he does not know what he is talking about. I have been in the union movement in Gibraltar since I was 18. Even today when it is

said that the workers are losing the support I can say that people have come to my house which is not the likes of the yacht club. I am proud to say that people come continuously to my house with their problems. Ask any member of my family. These are people who are criticising us and then come to us because there is a deep relationship between us. Let the hon Member not talk to me about unemployment in Gibraltar, that is something that I have been deeply involved in and that is what keeps me going to try to make Gibraltar self-sufficient, not because I want clients for Opposition Members. Unfortunately that is the area that I have to defend in the Government because if I have been bringing new businesses to Gibraltar it is the likes of some of the Opposition Members who are going to benefit, first of all because they are going to have to establish companies, because they are going to represent them but at the end of the day the people I have always been interested in, will continue to be interested in are..... [Interruption] I agree but Mr Speaker, do not let the hon Gentleman across there preach to us about unemployment and that we have never had unemployment in Gibraltar. We have always had unemployment in Gibraltar even when we had development aid from Great Britain, even when the MOD was going full blast ahead, even when we had Exchange Travel coming to Gibraltar and filling up the hotels and then went back and that was the end of it; even in those days we had unemployment in Gibraltar. The difference is that in 1988 when we came into office, bang went development aid; no development aid from Britain; close the Dockyard; leave no trace of the PSA, they are going to be withdrawing in three years' time. The threat of the airport! Gentlemen, I would have thought that faced with that sort of situation I think we have shown an awful lot of courage in embarking on some of the projects that we have done; in having the courage to be able to make decisions which were never being made before in Gibraltar. One of the problems with Gibraltar for many years has been that there have been no decisions being taken. Gibraltar is completely active. Please give us some credit for having had lots and lots of bad nights because when I embarked on the reclamation project, if there was somebody worried about it in Gibraltar it was Michael Feetham. I had an awful lot of bad nights thinking about whether it would all collapse. Where from am I going to pay for it? Will it be classified as a huge desert on the other side of Main Street? When one embarks on something one does not know if one is going to get investors to come in. One does not know what the hell one is going to do. The courage is to do it, not say now that it is done and take it for granted. The thing is to do it and we had to do it because there was nothing else we could do. How could we sustain and produce sustainable

assets in Gibraltar that are going to create economic activity in Gibraltar if we do not take the chances, gamble if that is the word we want to use, to try to bring this about. Gentlemen, what I can proudly say today is that there is not one piece, one metre of reclamation area that has not been disposed of. It has all been disposed of. The last area has been disposed of to Safeways for their expansion plans in Gibraltar. It means, gentlemen that we have recuperated a great deal of money for the Government's general funds on the basis of a decision that was taken by us. Now the Opposition say that that is an optical illusion. An optical illusion! Europort is an optical illusion? Europort should never have been built? It is a big conspiracy of massive fraud and Mr Michael Feetham is the brain behind all this? Jesus Christ! Mr Speaker, forgive me because I have used the name of the Lord in vain. But if I am expected in 1989 when I was having those sleepless nights with this huge reclamation that had to be paid for and along comes Baltica and then an investment group and say to me "We want to build an administration centre in Gibraltar and we are prepared to give £70 million for the Government of Gibraltar", what was I expected to say, "No, because in four years time it is going to be a failure. We are going to have a white elephant there"? The third white elephant because the second white elephant according to the Opposition is the New Harbours. The realities are that no Government anywhere in the western world would have said no to £120 million investment in Gibraltar. No Government! Therefore, what has happened? [Interruption] This is an optical illusion and of course we are told what jobs are we going to create in the next two years? We have created 2,000 jobs in the economy in the last four years. If we had not created those 2,000 jobs in the last four years of the economy what would be the unemployment situation today? These things do not work out on the basis of text books theories. These are decisions that are taken, positions that are taken and if things do not go well for some people it may go well for others. One or two members of the Opposition have said that to attract investment in Gibraltar, we have to ensure our reputation and one of the points made is about the fast launches and the tobacco and the other one is about the reputation of Gibraltar itself in the context of the Government and so on. We did get investment to Gibraltar, we continue to get investment into Gibraltar and it cannot be said that that is under question when we have got about four different groups wanting to buy Europort today. Of course they are going to get it cheaper but the thing is that there are investors wanting to buy Europort today. Is that because they think that this is a banana republic? That we have a corrupt

Government, Mr Speaker; that Gibraltar is not going to make it? People are continuing to queue-up for investment. What has happened to Baltica which is a first class company has happened to many other companies in many other countries. They have had a lot of difficulties in Denmark and therefore I do hope that they make a sale. I do hope that their withdrawal from Gibraltar is as successful as it could possibly be for them in this difficult situation. I cannot confirm or deny, that Mr Richard Branson will buy the Europort at least we have got somebody else that may be able to have some marketing assistance to the Government. Let us come down to earth, Gibraltar has got 30,000 people, out of those 30,000 people, we will get a certain degree of intellectual people that are prepared to work, a lot of people with an awful lot of experience that can be leaned on and can get assistance from and therefore help with policies, help with an awful lot of things that need to be done in Gibraltar but at the end of the day our resources are limited. The hon Member has criticised my hon Colleague the Minister for Tourism because he says £275,000 of marketing is peanuts. Peanuts in relation to 30,000 people is not bad. I would say that is £10 per head and then he has compared it with Malta. Gibraltar is 30,000, Malta is 750,000, so therefore if we take the logic to its natural conclusion £10 a head means that Malta should be spending £7.5 million in advertising for tourism. Nowhere near that. Gibraltar can only put into this what it can only put into it. The reality is that and we put our priorities where we think the priorities are, that is the difference between what the Opposition are saying and what we embarked on. We embarked on putting in the infrastructure; on putting in the foundations to begin to make Gibraltar self-sufficient. I do not think anybody in their right senses could quite honestly say that they expected Europort to be filled in 24 hours, or that the New Harbours; which is still not officially handed over to us people are moving in because they need to move in sooner in order to get their refrigeration into place etc, would be full from day one. It is impossible but what I can say quite proudly is that it is for future generations of Gibraltarians and consolidation of new jobs if we are lucky. I am privileged that I have got members of the Opposition criticising me for having done a project because if it was not there there is no asset for the future to try to work, to try to project, to try to sell, to try to get people in. It may be that when the Opposition Members are in Government in the future it may be a useful thing for them to have to be able to sustain their economic policies. Gentlemen, please let us come down to..... [Interruption] No, I am not giving way. Quite frankly when I am accused of putting pressure on people to

move to the New Harbours I would like them to give me an example were I have put pressure on people. I have not put pressure on people. Of course if they hide behind the logo that people do not want to stand up to be counted, they can never prove it and I cannot possibly stand up and say to that person in their face that it is wrong. It works both ways. I would like the Opposition Members to go and ask Mr Peralta if he was happy down there, when he has felt the need to expand his business. I would like you to say to Mr Peralta whether he has felt in any way bamboozled by me. Ask Mr Isola from Anglo Hispano who wanted to expand out of Sandpits for some time because that was an enormous problem from a congestional and urban point and with the neighbours there, of the loading and unloading. He is going into there. Have, I in any way, put pressure on him? On the contrary I have helped him to be able to bring a project to redevelop his existing site. I could go on and on. People who have come to my office, who have dealt with me know that I am very, very approachable and I help in resolving their problems. That is the way I feel that I can make a contribution to business people in Gibraltar, by working with them and trying within reason to assist them with their problems.

Mr Speaker, there have been so many things said and I do have to answer quite a bit. A big saga has been created about the Gibraltar Components Factory which is very close to my heart. The people that matter to me most are the workers in the factory who I employed. I took redundant workers from GSL and I retrained them and put them into the components factory. The reason why, and it is a very simple reason why, I accepted being the chairman of the factory? Not the managing director, I do not manage the factory. The factory has been managed by a management company, not me. I was accused by the member of the Opposition on television that I was the managing director of the factory. I have never been the managing director, I was the chairman, very proud of being the chairman of the factory. First of all the workers in the factory had more confidence and I had to spend initially quite a bit of time down that factory on the shop floor for one reason and it is very important hon Members must understand this and that is that when we signed the contract to do the Europort it had to be done with prefabricated building components and do hon Members know what it meant to me as a politician and as somebody that firmly believes in Gibraltar to have this enormous development coming to Gibraltar when the reclamation was not quite finished, when we had to put in the infrastructure and to find himself in a situation that the unit that could most do harm to the development programme of the Government was

the Gib Components Factory? Any problems in the components factory meant the end of Europort; meant the end of everything. Is that not correct? So for me it was important from a coordination point of view, at the very beginning of our term of office, and from the point of view of recruitment. I spent an awful lot of time at the components factory, because it was important that I should have a presence there as I was the chairman. It is a very simple explanation, Mr Speaker, the decision to do the factory was made by the shareholders who happened to be substantially the people that were building the Europort. Without a factory, without this sophisticated concrete mixer, because that is what is really is, the Europort would not have been built. That was a shareholders' decision. Two contractors that were involved on building on the reclamation and a local company invested in that and that was basically my position, nothing more than that. Of course the components factory when it was built, was built on a business plan and the failure of the business plan is being the same failure of so many other business plants in so many other places unfortunately. Two months ago we should already have started a new project that was agreed twelve months ago and we still have not had the project that was going to commence in three months time from today and that it also did not reach fruition. Why? One was a triple A construction company that went bankrupt in Denmark. I cannot be responsible if a company that is going to do a development and is vetted, has bought the land, goes bankrupt in Denmark and does not do the project in Gibraltar. That project was designed and negotiated on the basis that they were going to use components. So we had two and a half years more work geared for the components factory and in two and a half years presumably more things could come on line but that was the business plan that was drawn up originally and on the basis of that it went ahead. I can tell the House that when we talk about millions of pounds in terms of the creditors the global sum is a small fraction of that. In fact, in terms of the creditors they are very small sums of money. To the bank, they owed about £3 million because of the investment that was done there so I would say that the biggest loss in this case was the bank's. Of course it is most unfortunate. I would have liked the factory to have succeeded. I hope that there is a future for the factory in Gibraltar. Nobody more than I would like that but in this case it is the bank that has lost the money, not other people. Some win, some lose. I could make allegations of incompetence and so on and so forth because the loan agreement that was done by the bank was done by the Leader of the Opposition. It is his client that negotiated with the shareholders, the loan agreement. So it is his

client that has lost the £3 million and I can understand why they have created such a hullabaloo about it. I would never even have said so because I do not think really it is of great importance but at least if I, as Chairman, had been told that I am responsible for the fracas of the factory, which I am not..... Let us examine the situation. The factory was built under an appropriate business plan and the factory was closed but look what happened, on that unit alone during the time it was open in Gibraltar. In terms of local supplies in the economy it has paid £10.7 million and I am sure an awful lot of businesses in Gibraltar and in the Campo of Gibraltar have made a bit of money with the factory. If the factory had not been built that money would not have circulated. In terms of wages, £3.5 million have been paid to workers in the factory. I suppose if the factory was not built the workers in Gibraltar, who they care so much about, would not have received the money. Never mind, which I am not prepared to disclose, the very high level of tax which the factory has paid to the Government except the last two months because of the closure which is in default. If we talk in relation to the factory being default because it closed and it owes £X's to the Government in tax up to those two months, the company was up to date and has paid a substantial amount of money in tax. Again, that money would have been lost to the economy and if we are really talking about one factory being closed in Gibraltar and all the hullabaloo that has been made. I am most disappointed about it, because Mr Feetham happens to be the chairman and that is what all the political thing is about. Two days ago, in the debate between Felipe Gonzalez and Sr Aznar, Sr Aznar said to Felipe Gonzalez, "What answers have you got to the 100,000 companies that have closed down in Spain in the last quarter, in the last three months?" That we have one in Gibraltar that has closed down, I would say is not bad going quite frankly. Not bad going at all; 100,000 in Spain in a quarter, not to say of the hundreds of others that have been closing down in the UK. So therefore, Mr Speaker, I have nothing more to say about the building components factory. It is unfortunate but it has really created an awful lot of economic activity in the economy during the period that it was open and the small amounts which are owed to individual creditors are insignificant. If we do further research we will see that quite a lot of these creditors, small amounts which are owed to them, have made, pro-rata, quite a lot of money out of those £10 million. It was not just that it provided a service on the last day before the factory closed and I was caught. They have been giving a service to the factory for quite some time. Let us finish with that issue of the factory. Nobody is perfect but this person on this side has

done his best and I could give another explanation, a very important one that I am not going to because the bank has its problems and everybody is trying to see how an issue like that can be resolved and I know that there are a number of interested parties that would like to do some negotiations with the bank and I hope quite frankly that it is successful.

The picture that has been created constantly by Opposition Members is that, whilst we have been doing all these things, we have neglected other things; that nothing has happened, that nobody has come in. Again, the last speaker talked about an empty Europort; about the white elephant of the New Harbours. Mr Speaker, Europort is not empty. Europort could never be filled..... It is not even finished yet. Forget what may happen whether it changes hands or not. The programme to finish it would not have been complete today even though there has been a slow down in the termination because there are negotiations taking place. I asked for the latest figures of Europort and I find that apart from local companies that have moved in in the last twelve months, there has been ten new companies moving into Europort. I would say that is good and I hope that in the next three years we do get a rate of people coming into Europort at that level. I hope so and I am sure all will agree and hope that Gibraltar as a whole, not the Government themselves, is fortunate enough to be able to achieve that. But I then say to myself that I am being related all the time to Europort and it could well be that there are other offices in Gibraltar that feel that I may be devoting too much time to Europort and that they feel out because their offices are empty. In the last speech made when we referred to empty offices, not in today's session, a number of office blocks were mentioned, like Seclane House, Leon House; it is in the Hansard. So I said I ought to find out if these offices are empty. That is the best way of being able to have a norm to see where in fact things have been happening in Gibraltar during the last twelve months; whether we are getting people coming in. It is the only way and do not take it from me. I have got permission to release these figures from people the Opposition feel so very concerned about which demonstrate the following:

"Dear Minister,

Further to our telephone conversation of today, I have pleasure in detailing below the information required:

Garrison House: The building was completed in September 1992 and out of thirty three offices, thirteen have been rented in a period of eight months.

Seclane House: Out of thirty one office spaces we have five offices only vacant.

Leon House: Out of thirty five offices we have ten offices vacant, of which three are under offer."

Mr Speaker, despite the recession, despite all this picture that the Opposition are painting, Gibraltar continues to bring people in. Gibraltar continues to have the support and I am grateful for the support of people in the private sector that are doing their best to make sure that Gibraltar is successful.

I remember being told that I was being criticised for going to China. Well, quite frankly, what I do not want and I make it clear, this is a policy statement of mine, is to have anybody who does not feel comfortable with me, who does not feel comfortable with my policies, to accompany me anywhere, that is for sure. If they do not feel comfortable with me and they do not feel comfortable with my policies, I do not want their support, I would rather they went on their own way and if what they think is important for Gibraltar and I will not challenge that because who am I to say that? So, therefore, on my last visit to China, before I went off I made what I thought was an important gesture in the sense that I would say I am not having an elitist group which is what the problems were with the GIBDB, so I was told by different members of the GIBDB, depends where one is, one is criticised and there was I sitting in the middle listening to one group saying one thing, another group saying another thing. I have not got time to get myself involved in the intrigues of personalities. I have got a job to do and I want to do it, and I want the support to do it. But it was clear to me that the GIBDB infrastructurally was becoming an expensive thing, that if I am going to put pound for pound which meant that if they put £4,000, I was putting £150,000 because pound for pound of all of them is £150,000. I cannot continue for evermore to sign proposals by GIBDB which meant it was paying money for it when I was not happy with it, because they spent £5,000 or £6,000 on advertising in a publication which when I saw it I blew my top. £5,000 or £6,000 is quite a bit of money, and without any questions being asked and things like that, that was not the way. I am not against the GIBDB, if they wish to continue on their own they can do so but what I am saying is that because it is a matter of gut feeling and it is a matter of judgement

at the end of the day and one normally has to work with personalities and I am a personality in my own right. What I cannot have is to be responsible for bringing business to Gibraltar and for marketing Gibraltar and finding myself restrained or subjected to a group or the whims of a group of people. I cannot do that. Why cannot I do that? Because all hon Members will have the opportunity to criticise me for all the failures that I have because no matter what the GIBDB have done or does in the future, the person that would be made responsible for the failures is not the executive officer, it is Michael Feetham. I think I have legitimately got the right to say that if I am putting my neck on the line this is the direction I want to go and this is what I think because of the limited resources that we have. If I am going to put £150,000 I think I ought to have the right to say on what I want to spend it and ask for it to be supported. If I fail they have a right to say the Minister has failed but I am not giving the £150,000 for them to spend and I get criticised. It cannot be like that they must understand that this is not a game. This is a very important period and where I take my responsibilities very seriously and where I thrive in bringing results for Gibraltar. I do not thrive on failure, I want results and if I am putting my neck on the line, gentlemen, I am putting it because I want results for this little place that we all love very much. It is as simple as that but if, of course, some hon Members politically do not wish to associate themselves with the Government please do not do so because all they do is harm themselves, harm me and harm everybody else and I have not got time for that. What did I do on this visit to China? We have initiated it. We spent the money which is given to me under my budget. I made an open invitation to all Gibraltar, anybody that wanted to come along with me could do so in support of this venture. I never closed the door, I did not make it a thing of the GIBDB or the Government. I think there were about sixteen people who came along from all walks of life. I was pleasantly surprised by the reaction and whether the hon Member likes it or not, I think we are likely to see much more. I hope we see much more than one Chinese restaurant and time will tell. The net result is..... [Interruption] No, do not ask me when. What we have done is gone down there. I think we have done a successful thing. I said cautiously optimistic because I also worry about these things because I would like to see results tomorrow but I know all the problems internationally that we are up against. I know that I have to watch my back every five minutes because somebody is going to put a foot out and I am going to slip up because that is the way things unfortunately appear to be going and therefore I said I am

cautiously optimistic. I did not put the members that came to me to do this. In fact, I was surprised when this programme was put on television about the visit to China. I do not want to spoil it for anybody else, I will make an interview. I think that the members that came with us are and were quite optimistic about it. They, as companies, have signed twenty two agreements with different facets of Chinese economic life. I will deliver the infrastructure, I will deliver whatever is required of the Government to facilitate those businesses tying themselves up in joint ventures with Gibraltarians. I hope that the Gibraltarians are able to bring about new businesses from China to Gibraltar, on the batch of the little bit of work that I have done. I hope so because that would begin to show further sustainable growth in Gibraltar and for the office space here and for the industrial park.

Mr Speaker, on the new Harbours, all I can say is that at this point in time all the warehouses and the workshops taken up officially signed is 40 per cent, even before we have actually officially got it handed over. I can assure hon Members that I have not got this magic wand or this mace which is there, with respect, going around hitting people on the head. They are there because they wanted to do so. It is 40 per cent and quite frankly I hope that it is a possibility and it is seen by some Gibraltarian businessmen that may be in some areas of their businesses they have saturated their existing businesses and could think about diversifying their businesses into other opportunities and that the industrial park gives them an opportunity to diversify their businesses or to think about it. I strongly believe that there is major business opportunities in the areas of imports and exports for Gibraltar. Time will tell whether that is possible. I also see a lot of opportunities for trading companies to set up in Gibraltar and I also see, to a lesser extent, but definitely there, an opportunity for a level of light industry. I am under discussion at the moment with three companies for the purpose of setting up light industries. What I wanted to do is to put it into perspective, gentlemen. The industrial park was never made to convert it into a light industrial area. It was converted into being an imports and exports, a duty free zone and light industry, a combination, wherever the market is and whoever we are able to convince to come to Gibraltar we will go for in the context of the strategy that we have in place, and with respect in the context of what we are capable of doing and grabbing. Sometimes it is not possible to be choosers so time will tell what happens with respect to that, Mr Speaker.

The point was also raised about the opportunities for Gibraltarians that want to set up a business in the context of the New Harbours. The New Harbours is a very high specification, it was purposely built to a very high specification as a pivotal scheme of Government's image and economic policy in the area of industrial development. It is for us a show case of our economic policies and we make no excuses for that but the criticism is it does not give an opportunity for small businesses, people that want to go into from employment to self-employment, it does not allow for that. I am sure Opposition Members are aware that we are in the process of joint funding of the European Community and the Government in establishing what is called the Euro Business Centre because it has to be linked with the European Community and we thought it was a nice thing to call it, where small workshops are being built for people that want to do self-employment work. I think we are going to have a problem in that respect because I have got Buena Vista full of people that want to get on with their businesses and are using Buena Vista so let not Opposition Members ask what are we doing about small businesses. There are small businesses being set up and we are helping them and we will have further brand new facilities for them but for heaven's sake we have been in Government five years and if we do an examination of what we have done and knowing the system in Gibraltar and knowing how difficult it is, I think our record is not an optical illusion. Of course there must be areas that have to be neglected because it is not possible, no matter how much a Minister would like to do, it is not possible because the system sometimes slows him down. So therefore we are taking into account the question of small businesses and people that want to set up small businesses. We have already done so and we are doing so through the European Business Centre.

The other point which comes up which was mentioned two or three times about Ministers interfering with civil servants and interfering in their Departments. I make no excuses for interfering in my Department if that is what it is wanted to describe as. I am on the front line. I have to make the decisions in my Department for better or for worse because I will get the stick for it. With respect to so many fine people that we do have in the civil service, I have yet to see one civil servant that has been dismissed for negligence but the politicians are taking on the stick. So I prefer to take the stick but I will make the decisions in my Department but we cannot say that on one hand and then come to the House like the Leader of the Opposition, referring to the Principal Auditor's report, said that the biggest

conflict in overexpenditure without approval is the Minister of Trade and Industry. I say to myself how can that be? I have a fairly good grasp of what happens in my Department. How could I have spent £1 million without approval and of course people listening, some of them will not be listening today, will have thought this Minister is incompetent; has overspent; he has got no regard for civil servants; that is because he is interfering and so when I look quite concerned, naturally, at the Principal Auditor's report, I find that what he is referring to is to the overexpenditure as a whole in the Improvement and Development Fund which has got a number of subheads. Each Minister is responsible for each one of their own subheads, of which there has been globally over expenditure of £1 million. Not this Minister and then I look at the thing and I find that this Minister has not overspent one penny. I am not making excuses for anything. I am just saying please do not argue that there is interference and on the other hand say that we are also responsible. Of course we are responsible politically for overexpenditure. The controlling officers are the Heads of Department and therefore, Mr Speaker, I will take political capital for whatever my Department overspends but the controlling officers are responsible for it. They must answer to the Financial and Development Secretary but at the end of the day that is as much as we can do. No more, no less than that but let the Opposition not say that we are also meddling at the same time. It does not do the Opposition credit to describe the efforts of the Government as being an optical illusion. I do not think that is at all fair and justified. I think it is wrong, I do not think it helps Gibraltar in any way by taking the line that they have taken.

I would like to round up by saying what I think the next twelve months is all about. The next twelve months, Mr Speaker, in terms of marketing, in terms of business development, are going to be concentrated in those areas that as far as the Government are concerned, we are going to spend our own money in those areas where we feel we can best achieve some activity for Gibraltar. I have already said and continue to stand by what I have said that I will continue with my development of South Africa. I am going to continue with my development of China and that I have now started my initial framework for development in South America. I am going to these markets because in my judgements they are markets that for one reason or another need to look at alternative platforms and those countries, South America, China, South Africa, are the countries that I will be concentrating on; on top of which any other idea that comes through from the private sector that I feel that

I can give support I will most definitely do so, Mr Speaker. I am talking about marketing; going out, trying to bring..... I hate flying I do not cherish going seventeen hours on an aircraft to Paraguay but I have to do it in order to try to bring something to Gibraltar. We shall see. That does not mean that there are not other things that will be done in terms of my responsibilities as Minister because quite rightly the infrastructure now is in place and we need now to continue to work on the basis of what we have done. There will be other things in terms of local possibilities that I am already thinking about. Proposals have been put to me by different sectors of the business community here to enhance opportunities. Things that quite frankly are innovative and I am pleased that have been brought with me and some hon Members will hear through the grapevine of certain changes that we are going to bring about because I think this is now an area that we need to look at because it is a niche that has been found by people. I am not going to say so in public. It is up to business people if they wish to talk about. I think they are going to create further economic activity.

Finally, Mr Speaker, let us also be aware of one thing that everything that we have done as we have best described here has also been on the back of our position in the Community being under question, the UCITS, the banking problem, the financial services problem, the Financial Services Commissioner problem; all linked to the UK. I am not here to deal with that problem, that is the Chief Minister's prerogative but I would say that in fairness to Gibraltar it has been a major handicap in our capacity to work in other areas. If some Opposition Members think that the moment they come across here they are going to be able to do everything they want or they think they can do simply because if being a Minister or in the Government, I think they better start examining themselves because in terms of Constitutional issues, in terms of relationships, everything is put in the melting pot and sometimes it can be very difficult but I have complete confidence in the capacity of our Chief Minister to deal with the major issues. I deal with the tiny ones and I am sure that with his continuous strenuous efforts on behalf of Gibraltar, we will make it. I am convinced that we will make it. The Opposition's picture is different from our picture, time will tell, Mr Speaker.

The House recessed at 5.20 pm.

The House resumed at 5.45 pm.

HON E M BRITTO:

Mr Speaker, in winding up this Budget debate last year the Hon Mr Bossano opened up his contribution with the following words, and I quote from page 139 of the Hansard of the 1992 Budget, "Mr Speaker, it is not easy in winding up for the Government on this year's Estimates of Revenue and Expenditure to defend the policy of the Government for the management of the economy of Gibraltar when it has not been attacked". So it should come as no surprise to Ministers as it seems to have done in at least two cases that Opposition Members do attack Government policies, policies on the management. [Hon Members: Policies not individuals] I am talking about attacking the policies on the management and if there was an almost violent reaction by the Minister for Government Services yesterday..... [Interruption] Mr Speaker, in two minutes this is the second time I have been interrupted..... to the fact that the Government was being attacked. From the Hon Mr Pilcher there was encouragement to be more positive and to show the alternative policies and which I hope to be able to do today but I shall be doing both. I shall be criticising and I shall be positive. I shall be criticising the Government under four general headings. The first one being the failure to be publicly accountable in the management of public funds. The second one, on their failure to maintain the respectability and credibility of the Government. The third one, for their failure to lower unemployment levels and the fourth heading for their failure to stop being secretive and dictatorial as we have accused them in the past.

Mr Speaker, in respect of their failure to be publicly accountable I intend only to cover the subject in general terms because it has been covered in far greater detail by my hon Colleague the Leader of the Opposition, but I will highlight for the record and to stress the point just three main headings. The first one being that once again this year, as happened last year, the Estimates of Revenue and Expenditure are incomplete and that they show only 65 per cent of the figures of actual revenue. Therefore, to a certain extent the figures on page 5 become almost meaningless. Secondly, I criticise the management of Government finances through commercial companies that do not publish accounts, that remain secretive, that do not give details of what they are doing or what they are investing in or how the money is being managed that are using taxpayers money without telling the taxpayer how this money is being used. Thirdly, I criticise the Government once again for their refusal to establish a Public Accounts Committee of this House of Assembly. A Public Accounts Committee, as we

all know, but for the sake of those who do not, is one of the vehicles in most, if not all, other parliamentary democracies which gives the Opposition the chance to monitor on an on-going basis Government expenditure, not just by expenditure authorised by Ministers but expenditure authorised on a daily basis by civil servants. This is a vehicle that is denied to this House of Assembly and I would like to relate a short anecdote that when I attended the Commonwealth Parliamentary Conference in Guernsey last year the fact of Public Account Committees was one of the subjects under discussion. Obviously the Minister, the Hon Mr Moss who was the Government speaker, justified and explained the reasons, the philosophy of the Government thinking why a Public Accounts Committee was not needed and I in turn spoke and explained the Opposition's view of why a Public Accounts Committee should be in place. But that is not the point. What struck me afterwards was the number of delegates from other delegations who saw me privately and who questioned me further and could hardly believe that there was a democratic Parliament that did not have a Public Accounts Committee and it was incredible to them that this vehicle for checking on public finances handling was not available in Gibraltar. I say no more, Mr Speaker.

I would now like to look at the Consolidated Fund levels as they have been changing since this Government came into power, and to see on record the trend as it has gone. When the GSLP was first elected into Government in March 1988 the general reserve of Gibraltar, in other words, the Consolidated Fund, stood at £11.2 million. One year later, in March 1989, it was more or less the same, £11.3 million. By 1990, at the end of the financial year, it was beginning to drop and was down to £8.9 million and dropped again to £3.6 million by March 1991. It recovered slightly in March 1992 to £7.7 million and all these are actual figures but by the end of the last financial year, March 1993, it was down to £2.8 million and by the end of the current financial year, in other words, by March 1994 it is estimated to be as low as £1.5 million. Admittedly we heard from the Chief Minister in his speech that it was the intention to raise the balance in the Consolidated Fund in the following year but be that as it may we have to take the existing figures. What makes matters worse to my mind, not just the fact the pattern which the Consolidated Fund balance has been dropping, but what makes it worse is that the figures for 1993 and 1994 are unreliable because not all the revenue is included and because not all the expenditure is included it is totally meaningless to say it is £2.8 or £1.5, it could be more or it could be less. It could even be in deficit and without further information from the Chief Minister or

from the Government we are unable to establish what the true state of the balance of that fund is. Of course, the situation becomes worse when one realises that there is a dependence on those figures on the import duty from the fast launch tobacco smuggling which we have seen my hon Colleague the Leader of the Opposition request the Chief Minister to give us an idea of how much that import duty is but I would venture to say, and the Chief Minister can correct or can confirm, that it will not be less than £10 million a year. The situation is worse when one looks at the unprecedented high level of borrowing - £87.4 million in March 1992 and, as confirmed by the Chief Minister yesterday, up to £92 million at present. Plus any other borrowing that is being done or may have been done, which we know nothing about, through commercial companies. Let me say to the Hon Mr Bossano that when he, apparently, proudly announced yesterday that it was not the intention of the Government to seek any further increase in its borrowing powers and to keep the level at £100 million that this is a cry that is not shared by his fellow citizens out in Gibraltar. People are generally worried about the level of borrowing. The other factor that makes these figures worse, Mr Speaker, as we have heard from other Opposition speakers already is the high level of personal taxes to which Gibraltarians are subjected to. The fact that personal income tax has increased every year since the Government came into power and although it may not be apparent because the actual percentages of tax remain the same the fact is that because personal allowances have not been increased in real terms we are all paying much more income tax. We estimate the middle bracket about 48 per cent higher than UK and we are all paying much more income tax than we were when the Government came into power. As a result there are certain things that could be and probably are emanating from these factors. One is that the finance centre is not developing as fast as it could have been; that at the best it is static, at the worst it is probably in decline. Secondly, that Main Street trade both in the shops, and in the restaurants, certainly in the hotels where two have closed down, trade is depressed and it is no good to say anything to the contrary. What one has to do is walk down Main Street and talk to the traders and ask them and the answer is quite clear, trade is depressed and obviously the other factor that it could be affecting but of course the lack of Government policy in this field will also be a factor, is the lack of tourism that is coming to Gibraltar.

Mr Speaker, the second area of failure that I want to examine is the loss of credibility and respectability that is creeping in to, and I use the word advisedly, of the

public perception of the Government. In Spain, in the times of General Franco and before the Chief Minister immediately raises his head as he was once accused of being a Caudillo, I am not drawing a parallel. In the times of General Franco when people were afraid to go out and criticise the Government because of the dictatorship and so on, one way of testing the temperature, one way of getting the feel of what people were really thinking was to listen to the jokes that were being told. I am afraid that if one listens to some of the jokes that are around Gibraltar today it is not to the credit of the Government. I shall explain in a minute what I mean. Before I carry on to the actual jokes let me digress a moment and go back to, I think it was the Hon Mr Perez who said yesterday, that to blame either the Opposition or the Leader of the Opposition for the rumours that were going round town for casting aspersions on the Government. I put it to Ministers that the first person to mention the words corruption was Mr Clive Golt in an interview with the Chief Minister many months ago. It has not been a recent thing, when he asked him what did he have to say about what people were saying. The Chief Minister can tell us afterwards his recollection of the interview. My recollection is that Clive Golt asked him what he had to say about the comments..... [Interruption] I do not want to blame Clive Golt or anybody else. The point I am trying to make is that the rumours, according to what was asked in that GBC interview, were circulating many months ago but they have not started by anything that has been said in this House. Coming back to the jokes that are circulating we heard my colleague Mr Cumming yesterday, the more innocuous of these jokes about the Russian eye ship having been brought over by the Opposition in order to open the eyes of the people. They are of the less pleasant and more insinuating jokes. There is a mathematical joke, the one about a Minister being called Mr Ten Per Cent. There are the medical jokes about certain members of the Government suffering strokes or from AIDS, and I hasten to add that thankfully it is not an ailment that is meant, either in stroke or AIDS. The joke is that a certain person has had a stroke and that he has been paralysed with one arm behind his back - an obvious insinuation of backhanders. There is the joke from AIDS of which I have heard various versions ranging from additional income derived from Switzerland or additional interest on deposits in Switzerland. Implications are obvious, Mr Speaker. There is a housing joke about which Minister is best suited to be Minister for housing because his/her ability to acquire expensive holiday homes away from Gibraltar, be it in Portugal, Sotogrande or elsewhere. Needless to say there is the reference that has been more than referred to by the Opposition to newspaper

articles that have appeared. I am trying to be positive in that the Government has only itself to blame because of the way that they have gone about governing and they have gone about setting up doing business. I hope that any of these allegations are not true and if they are not true they have only themselves to blame, some of the things that they are doing which the GSD would change the moment it came into Government. For example, this is one, the lack of a tender system which we have pressed year in, year out, successive Oppositions since 1988. Ministers put themselves in a position by being personally responsible for deciding on contracts. They put themselves into a position where people think that things could be going wrong. They put themselves into that position by being involved in commercial companies and taking decisions and getting themselves involved in the market place in the day-to-day running of commercial businesses where things can be suspected of going wrong. The GSD policy in this field is clear and it was spelt out in our manifesto at the time of the last election. Not only would these two areas that I have just mentioned be changed but we would also, for example, restore the traditional role of the civil service so as to act as a buffer between the direct contact that Ministers now have in these areas. We would appoint an administrative ombudsman so that complaints or suspicions from members of the public which at the moment are voiced behind hands and behind doors for fear of being identified could actually be voiced and ask for investigation. We would set up a citizens' advice bureau where people who had complaints could get legal advice on how to go about it. We would certainly, and immediately, appoint a Public Accounts Committee to take up the functions that I have already described previously. We would certainly publish full estimates of revenue and expenditure as was the custom in this House prior to 1988. Finally, we would certainly not have Ministers on the board of directors of commercial companies and if by any chance they were to be there for any reason that in the GSD judgement they were required to be there, then contrary to what is happening now they would be politically answerable in this House of Assembly. Those is set out GSD policy.

I now come to employment levels and or the failure of the Government to succeed in its set out policy of reducing unemployment. I must go back again a moment, and I am sorry to see that the Hon Mr Moss is not here, because he asked yesterday for a positive contribution and I hope that what I am going to say will be positive. He asked that political points should not be scored in the debate on unemployment and in principle I agree with him because unemployment is a very sad state of affairs, and not one to make political

capital of. But what I cannot with all respects to the Hon Mr Moss allow to pass unchallenged and without explanation is the apparent, without spelling it out I am saying it, unemployment problem is a very recent one. Government policy up to now has been succeeding in keeping unemployment down but now they are going to take tremendous steps to cure it. I support the Government fully but let us get the starting line clearly defined and the starting line - I am quoting now from the GSD manifesto of January 1992 - is not today, it is not two weeks ago, in that manifesto we were saying "over the last four years unemployment has risen to the unprecedented level of about 1,000. Of these, 559 are Gibraltarians and 216 are under the age of 25 years." If I remember correctly, those figures came from answers given in this House, answers to questions from Members of the Opposition. What I am saying is that in January 1992, we were already over the 550 and according to the Chief Minister yesterday we are now at about 600. In the intervening period - I think it was in the Budget speech but it may have been at Question Time - the Chief Minister has told us on more than one occasion that it was Government policy to strive for full employment but certainly that the target was to reduce the figure of 600 down to the traditional figure in the area of 300. I see the Chief Minister nodding; I am glad he has confirmed. The point I am making is that, regrettably, that policy has not succeeded but I am glad to see - the Government have the support of the Opposition - this new spirit of cooperation that has arisen with the unions in the last two weeks. The point I am making is that from press releases from the Transport and General Workers Union and from public announcements it is clear that there has been pressure and a wish from the Union to get together with the Government to do what the Hon Mr Moss told us yesterday is going to happen now. I find it difficult to understand why; perhaps it is not so difficult to understand, it has taken a "hunger strike" and a petition of 10,500 signatures which is most probably the cause for the Government to get together with the Union. Apparently - from press reports because the Opposition do not know yet the full details - there is now a newly-found spirit of cooperation which hopefully will end up with some positive results. I stress again that the Government, and I hope the Hon Mr Pilcher is taking notes, has the support from the Opposition in this field. In this respect I also welcome and support the commitment given by the Minister for Employment, the Hon Mr Moss, yesterday of the application of full Government resources to combatting unemployment. At this point I will digress for just one minute to ask the Chief Minister whether perhaps he can in his contribution to wind up the debate whether in view of

the fact that he told us yesterday that it is now going to be Government policy possibly to sacrifice the level of 14,000 jobs in order to achieve full Gibraltarian employment, whether that by implication also means that he is sacrificing the target of £450 million of GDP by 1996 as he indicated last year that the two were going hand in hand. Mr Speaker, in supporting the Government policy to combat unemployment I want to set out the GSD policy on what we would do and what we think that the Government ought to be doing. Let me say straight away that irrespective of the apparent difficulties with EC legislation, we think that practical ways have to be found to give Gibraltarians priority of employment at the time of vacancies being announced. We appreciate the difficulties because of EC legislation but we know and I am sure that Ministers are also in a position to know that there can be devised and used bureaucratic and administrative means of trying to delay the employment of EC nationals. I am talking specifically not about people who are working here already. I am not for a moment suggesting that we sack everybody who is not a Gibraltarian. What we are saying is that if a building contractor comes in from another country that he should not be allowed to bring in a foreign labour force of X number of people when there may be carpenters or masons or even labourers in Gibraltar unemployed. Ways have to be found of making it more difficult for those people to be employed immediately that the foreign company comes in. Secondly the question of illegal labour which the Union has highlighted so successfully in its campaign recently and for which the Government has shown intention to support is one that obviously needs to be tackled and is one that we are all in agreement with and needs no more to be said than that the Government have the support of the Opposition on it. The third point is a little bit more controversial and this is the question of reviewing the Job Centre as it is working now. I will say to the Hon Mr Moss that I will be taking up his invitation to see the workings of the Job Centre as soon after the meeting of this House as convenient so that maybe he can reassure me of some of the opinions that are given to Opposition Members at our political surgeries or when people talk to us and tell us about the problems. I have heard the Hon Mr Moss today on a lunchtime interview on GBC radio defending, as it is right and proper that he should, his staff in the Job Centre. I do put it to the Minister that regrettably there are people who feel that they are not being treated well by some members of that staff. The question of faces not fitting which he made reference to is something that comes to us quite regularly. People go into the Job Centre and automatically they are told there is nothing for them, which brings me to this question of

fitting people to vacancies. I know there is difference of opinion over whether the list of vacancies should be or should not be published. I think I understand the Government's thinking of why it should not be published and in fact the Hon Mr Moss today on radio drew a comparison with an employment agency in UK; if they did not have the Channel dividing them from France maybe they would not publish their vacancies either. But unfortunately what is also happening is that people who are going looking for jobs are not getting a fair crack of the whip; they are not getting a fair chance to decide for themselves. Supposing someone comes in looking for a job as a carpenter, he is being told to go to such a particular firm and in fact what should be happening is that he should be told that there is a vacancy for a carpenter in that firm or in that firm so that the person can decide to which firm he wants to apply and not to be told summarily to go to a particular one and not to be told there are two vacancies somewhere else. This is the other side of the coin where the system does not quite work. I am not sure, to be perfectly honest, I know what the answer is but like in everything else it must lie somewhere in between. The other aspect that this system of undisclosed vacancies has is from an employer's point of view, in which I have found myself, and when one asks the Job Centre for a person or persons to fill a particular vacancy, instead of sending a number of people for interview so that the employer can decide which one to choose. What happens is that one person turns up and if that person is interviewed and for some reason may not be suitable. In any case it is always better to interview and select from a number of people. Then the next person comes maybe three days later and a third person comes the following week, so by the time one ends the process it has taken two weeks but maybe I have been unlucky. On the two or possibly three occasions that I have done this, that is the way it has gone. It takes two to three weeks to go through a process of interviewing three or four applicants. I will give way to the Minister.

HON J MOSS:

Mr Speaker, I did explain yesterday to the hon Member how the system works. I have explained it to him in the past and it is regrettable that after the information I have given him and the numerous invitations I have extended to him to familiarise himself with the position at first hand, that he should continue to criticise, from a position where even though as an employer I will admit he might have had certain experience from this, I do really think that he is criticising from a position of ignorance.

HON E BRITTO:

Before the Minister came in, I do not know whether he heard me from outside or not but I did say that I would be taking up his invitation. I have said quite frankly and quite honestly that I do not know what the answer is but it must lie somewhere in between. There is obviously something in the system at the moment that does not quite work. I am prepared to be flexible and agree that a solution needs to be found, what I do not agree is that what at the moment is there is perfect but we can discuss this later.

I would also like to stress that the GSD policy on unemployment is not something that has been invented in the last three weeks because of the sudden climax of pressure that there has been. This is something that once again was laid down at the time of the election in the manifesto and rather than go into detail from the positive contribution point of view for the Government, I will quote verbatim from that manifesto:

"The Gibraltar Social Democrats will give first priority to tackling the problem of unemployment and job creation. We will: (1) implement a package of incentives and concessions aimed specifically at job creation. (2) Embark on a radical campaign of training and re-training to ensure that Gibraltarians are well placed and qualified to take more of the jobs in our areas of economic activity. (3) Take steps, in close consultation with the experts in the field of education to ensure that our schoolchildren, specially those not intending to pursue further education, obtain the maximum possible preparation for the jobs likely to be available for them when they leave school. (5) Re-establish a training centre to enable our youth to obtain the traditional skills to fill the jobs presently being done by craftsmen from abroad. (6) Encourage and protect local businesses and not allow them to be squeezed out of the market as is presently happening in some sectors by a concentration of Government linked work in the hands of a few mainly overseas or joint venture companies."

In respect of the second last point, Mr Speaker, I am glad to see that at last the Government have agreed to the re-establishment of a training centre, something which we have been pressing as an Opposition for quite some time. I see the Minister is shaking his head, he told us there was going to be an apprentice centre in New Harbours by September. Is that not so?

HON CHIEF MINISTER:

With all the questions he is asking I do not want to interrupt him, he will get the answers when I speak.

HON E BRITTO:

I was congratulating the Government for actually setting up one. I now put that as the ex-Minister for Housing said with an R behind it, in other words: reserved, so that if it turns out that there is not going to be an apprentice training centre I can withdraw the congratulations. I cannot leave the subject of unemployment without touching on the Moroccans workers situation. In this respect I must start off by saying that firstly, Gibraltar cannot give what it does not have and secondly that the Opposition agree with the assertions of the Chief Minister yesterday that the British Government cannot just up and go and unpack MOD, leave the Rock and leave the responsibility and the problem of the Moroccans in the lap of the Gibraltar Government. Having said that, I think that there is also the human aspect of the problem especially for those Moroccans who have been here, for want of a better date, prior to 1985 and the opening of the frontier. In those cases there has to be devised a special treatment. But more to the point, on a day-to-day basis, Mr Speaker, what I cannot agree with is what we see as the discrimination that there has been in recent past against the Moroccan workers and, no doubt, Ministers will say that I am wrong and that it is not happening. It is obvious that there have been cases where employers have been discouraged from taking on Moroccans and not to employ necessarily Gibraltarians because that maybe I can understand but I have had cases given to me of Moroccans not being employed and instead Portuguese or Spaniards or other nationalities have been employed. The point I put to the Government is a simple point but fundamentally it is a very important one and that is that as Ministers know EC legislation does not allow us to discriminate against EC nationals but, EC legislation does not say that we have to discriminate against non-EC nationals - in this case Moroccans. I think what needs to be happening as a matter of general principle is that those Moroccans, especially those who have been here prior to 1985, should be given equal opportunities. I stress the words equal opportunities, on the job market to EC nationals and that will not be breaking EC law and that would allow Moroccans to have access to jobs in competition with other EC nationals and always bearing in mind what I said when I first started speaking about unemployment, that I said practical ways of giving Gibraltarians first priority.

I said the fourth area where I would criticise the failure of Government being in their perseverance with their style of Government which certainly we in the Opposition consider secretive and dictatorial and I will not go into any great detail on this. Government Members heard us ad infinitum during the election campaign but I will illustrate it with one or two examples which are relatively new. The first one is the question of GBC and the ongoing saga of the fiasco at GBC and regretfully I must disagree that there has been no personal involvement, as he asserted yesterday, by the Minister for Government Services. It was precisely the Minister for Government Services who said either here or, I think, possibly in a discussion on GBC television about two years ago that he would solve the problem of GBC and he took it on himself to solve the problem of GBC. He tells us yesterday that he has been keeping out of it so as not to be accused of political interference. My information which does not come from the horse's mouth but from a pack of horses, to put it into context, is that he has been involved and he has been involved in the setting up of Straits Vision; that he has been involved in board meetings that have been unofficial. There have been, according to my information, unofficial meetings of the board of GBC in which not all members have been present and I predict that the eventual solution to the proposal being given by the staff and management and the Strait Vision proposals, will not surprise me if the Strait Vision proposals are given a preference.

I now come to the question of the Public Market. We were advised about six or nine months ago that the Public Market was going to be privatised, and what worries me here is that as recently as February of this year, the Minister for Tourism wrote to one of the market stall holders. I put it on record that this letter has reached me not through that person, let us be quite clear about that. He was saying in this letter "I can confirm that the Government is prepared to consider taking on the responsibility by sub-contracting this to a private operator who will, under licence, have to ensure the continuing presence of the existing operators initially paying no more than double the rent" and this is as recently as February of this year. I understand from the stall holders that they have been told to take it or leave it, that here is a contract to be signed with the Tourism Agency Ltd, I understand by the end of this month, in which rents, again I understand, are going to be raised by six times in some cases. I put it to the Minister that it is impossible to expect any business to have its rent increased by that sort of level by a factor of six or thereabouts. I

do not know whether it is the same in all cases, but that is my information, to be put with one's back against the wall and told take it or leave it. There seems to have been a lack of communication with the Minister over the period because the stall holders all of a sudden have found themselves in this position in the last four or five weeks. Talking about what my hon Friend Mr Vasquez was saying earlier on about not wanting to inform the Minister of who had given him the information on the GIBDB, here we have another case. The stall holders tell us that they were told at the beginning of the negotiations that they must not seek legal advice and they must not go and see the Opposition, because if they did the Government would be much harder on them and on negotiations. The Minister has denied this but this has been told to me by more than one person and I am not prepared to disclose the name because people do not want their names to be disclosed. I will give him another example of this sort of thing happening and this is happening, we understand, with access funds. A number of people approached my hon Colleague Mr Francis that they had problems. He went into this yesterday in detail so I will not bother the House with repetition; they were having difficulties. My hon Colleague approached the Minister for Education who very correctly told him, "Tell me what the cases are. We do not think there are any problems. Tell me what the cases are and we will investigate". Lo and behold my colleague goes and talks again to the people concerned and they say "Oh, no, no, you must not mention our names". This is, I am sorry to say to the Government, public perception of this fear that there is of not being identified as being..... [Interruption] I do not want to sound melodramatic and I take back the word "fear"; of this perception, of this thinking that one must not upset the Government because if one does then there is going to be some sort of comeback. Whether Government Members like it or not, there is this problem. I am sorry to say to the Minister that I would like to believe that this is a problem that did not exist before 1988. The Minister for Tourism asked me to give way on the question of Public Market, I am prepared to do so if he wants to.

HON J PILCHER:

I said before I do not know whether anything I say makes a difference but it does not but anyway I think just for the record Mr Speaker, I have had various general meetings with all the public stall holders and at no stage would I dare to advise anybody in a general meeting not to go and seek legal advice or not to go and see the Opposition. This is a democracy and they can do whatever they like. That is the

first point. The second point that I would like to make is the Public Market, because on the one hand I am advised by the Hon Mr Britto that I am doing something about the Public Market and on the other hand I am accused by the Hon Mr Vasquez of not doing anything on the Street Market. So when I try and do something I lose and when I do not do something I lose as well. The situation is that the letter that the Hon and Gallant Col Britto is referring to is related to a series of discussions which have happened during the last six or seven months. The final letter that has been sent to all the market stallholders, although not all of them because some of them have been treated differently under a lease arrangement and not a licence arrangement which was only for the internal stall holders in the market and not the peripheral area of the shops, is in trying to put in place something which is similar to the system used at the airport with concessionaries in a way that they produce a licence which is renewable every three years to try and minimise the level of licence payments that they would have to make. To give the hon Member an idea, the market value of rent today in the commercial centre, particularly in areas like in Main Street, are somewhere in the region of £16 to £20 per square foot. In outside areas we are talking about something like £10 to £14 per square foot and in areas which are quite hidden away like, for example, housing estates, the lowest level of commercial rent or licence payment is somewhere in the region of £6 to £8 per square foot. What the market stall holders have been advised, and only advised because every letter contained a clause that said "Each individual problem will be looked at individually" but the level at which the rent has been pegged is £2 per square foot per annum. If any Opposition Member wishes to say that this is exorbitant in what we are trying to do to create a very stable commercial area there, in protection of the tenants of the area, in protection of the stall market, in trying to activate the whole area for business which is not the case at the moment. Then Mr Speaker, that can be their decision but an average of £2 to £3 per square foot per annum is not exorbitant and we are certainly not looking at exorbitant rents. Of course, if somebody is used to paying, since 1969 - I am using examples - I am not referring to anybody in particular, 20p per square foot per annum, I am sorry the Government is not in the business of subsidising commercial businesses.

HON E BRITTO:

Mr Speaker, there are two points that arise out of that. The first one is the one I made before that even if the rents are not at commercial level - apparently in February

of this year the Government was prepared only to double them - what we cannot do to any business is multiply by six, like that, out of the blue. But more to the point, Mr Speaker, what the Minister is saying about commercial levels is unfair in the sense that the market does not have the normal commercial conditions of any other premises in the ICC, in Main Street or in Irish Town. More to the point that the market is in a very dilapidated state. There is a problem of water penetration, there is a problem of access, stalls are not enclosed and therefore it is no good the Government saying that they are going to apply commercial rents when there are not commercial conditions inside the market. One has to go behind with the other. If they want to apply commercial rents then the first thing they have to do is refurbish the conditions inside and set up the market in the way it should be set.

My last two points Mr Speaker I will dwell on very briefly, I am getting conscious of the time. It is something that we have said more than once before and there is little repetition needed. The first one is the question of consumer protection where we have time and time again dwelt and stressed on the fact that there is no consumer protection in Gibraltar. We have had indications from the Minister of Trade and Industry that it was going to be set up. I was hoping in his contribution he would be in a position to give us a firm commitment but if he has news for us I am prepared to give way. I am sorry to see that he did not make any commitment and from the Opposition we once again call for a proper system of consumer protection and not the inadequacy that we have at the moment.

My final point, Mr Speaker, is the perennial one of vehicle clamping and we stress once again that we feel that there should be more police control on the question of clamping and that certainly the clamping should not be done on a commercial basis; in other words, that the people directly concerned with clamping vehicles should not drive financial advantage based on the productivity that there might be.

Mr Speaker, before I sit down I have to dwell on one or two points on the contributions of Government Members, as is my duty in winding up for the Opposition and I will try for them to be as brief as I can. The first one is the point made by the Chief Minister and taken up in general principle by the ex Minister for Housing - it is more or less the same point - and this is the question of the cut back on overtime in Gibraltar Departments and specifically in the Electricity Department which we highlighted recently. As far as I understand it, because of the ban on overtime certain

personnel in the Electricity Department who are supposed to be on-call or on duty outside normal hours in cases of emergency, are refusing to do that overtime if they do not get the other overtime. The point that we want to make is that it seems there are problems arising out of the changes in overtime that the Government has implemented, in having an emergency service, be it in the Electricity Department, the Housing Department or in whatever Department. Three or four weeks ago when there was a problem in Cornwall's Lane and the Department could not attend it. If that problem has not been solved and it is not going to be solved because of problems with the unions or with the workers concerned, then I think what is unacceptable is that the situation continues and there is no emergency service at all. If there cannot be overtime then there has to be shifts or some other solution but the point being that an emergency set-up must be there.

Mr Speaker, coming on to the contribution from the Hon Juan Carlos Perez I notice that he is offering the parties making proposals for a solution at GBC, extensions, if it is going to be helpful after the 1st of June. The points that we would make is that the situation should not arise where a party that provides a set of proposals by 1st June is placed at a disadvantage because any other party that has not provided proposals until later, obtains access to the details of the first proposal and therefore is able to modify their own proposals subsequently.

On the question of the infrastructure works in Queensway and the question of flooding where the Minister pointed out that the infrastructure works had not affected the flooding but that the flooding would be corrected when resurfacing was done subsequently, it just occurs to me that I hope we are not in for another prolonged period of obstruction in Queensway. I wonder why it was not possible to do both things simultaneously rather than subsequently.

Mr Speaker, on the question of the Government Lottery and I do not want to go into detail on this but in terms of general principle and it is a worry that I have expressed before, the projected and estimated total or profit if one wants to call it that way, for this year from the Lottery is £800,000. But what worries me is that that £800,000 is dependent on the Government getting back £1,875,00 in unclaimed prizes and I have expressed this fear before. I look back on the figures for the last two years and obviously it has not materialised but in line with the new lottery and in line with the two £1 million prizes it makes me slightly nervous to see the Government relying on more

than double the previous figure of unclaimed prizes. It is £750,000; it is now over £1.8 million and it worries me to see the Government relying on such a large figure of unclaimed prizes in order to make a profit.

Mr Speaker, coming on to the Minister for Education, the Hon Mr Moss and the question of unemployed graduates, he asked Opposition Members the hypothetical question of whether anybody was saying that there should be a change in the system of scholarships in order to provide points and decrease the number of scholarships. Let me reassure the Minister that that is not Opposition thinking and that we support the present Government policy on scholarships but however we feel that there should be a better career guidance for those students about to set off on their scholarships so that the identified gluts in areas like law and accountancy, for example, do not develop in other areas of the job market so that people are aware of how many students there are away doing a particular type of training so that they may, if necessary, of their own choice make any changes to their chosen career.

Mr Speaker, the Hon Mr Pilcher, in talking about his new job as Housing Allocation Minister, made an interesting comment when he said "his Minister will not be involved in interviews or in the direct allocation of Government housing" which, by implication, means that previous Ministers have been and that is not my understanding in the past. I have been under the impression that previous Ministers have not been involved in the allocation of Government housing, that it is done by the Allocation Committee so maybe previous Ministers can confirm this.

HON J BALDACHINO:

Mr Speaker, I am sure that what my hon Colleague meant was for public knowledge seeing he was now taking over the Housing Allocation and normally it has happened where in all Governments people do try and see the Housing Minister because they think that the Minister is in a position to influence whether they are given a house or not. I can assure the hon Member that when I was the Housing Minister I did not give direct allocations.

HON E BRITTO:

Mr Speaker, coming on to the Hon Mr Feetham, just a question which maybe the Chief Minister can give us the answer, is the slight contradiction when he said that he had been looking at China and South Africa, that the next country he

wanted to look at was South Africa. As a matter of interest we would appreciate an indication of which countries in the South American continent he is looking at.

Finally, Mr Speaker, there have been several Government contributors who have made reference to the phrase "optical illusion" as used by the Leader of the Opposition both in the election campaign and more recently in his own contribution earlier on. There seems to be a misunderstanding by the Government on what has been meant all along by the phrase "optical illusion". Government Members refer to the optical illusion and immediately apply it to either Europort or the housing on Westside or they apply it to the buildings, to the actual..... [Interruption] That has been said more than once. Optical illusion is applied to the buildings and what I want to clarify is that the reference to an optical illusion which started during the election campaign is not to the bricks and mortar, not to the housing, but to the fact that the temporary and unsustainable growth in the economy which was projected by the building boom of these buildings gave the impression of an economic healthy situation which in fact what was not as healthy precisely because it was unsustainable. That is what we want to clarify that it is not a direct reference to the buildings but to the impression given by those buildings and the economic activity generated by the buildings. That concludes my contribution Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, if I take first the last remark of the last speaker there can be no question as to us misunderstanding what they meant in the election campaign of 1992 when they were talking about an "optical illusion". Just like there is no question about the innuendos about corruption which they used in their election campaign and which they have continued to use ever since. The hon Member has just asked me whether in the remarks I made in opening the debate on the economy of Gibraltar as to concentrating on getting Gibraltarians employed as opposed to concentrating on maintaining 14,000 jobs we are giving up the target of £450 million in 1996. Is £450 million in 1996 an optical illusion? Is it unsustainable economic growth? That is what we have said our target was in 1992. In 1988 we said the economy will grow from £150 million to £300 million. In my opening statement today I said the most recent figure which is likely to be the final figure is £303 million in 1992 when we called the election. It may be in the minds of Opposition Members an optical illusion, but it is the target we set ourselves. We did not say that the economy

was going to grow from £300 million to £450 million in twelve months as the Hon Mr Vasquez - I do not know whether to call him Learned after putting his foot in it to that degree - and I suppose I am required to call him honourable notwithstanding all the other things that he said in his speech. Required to do it that is why I am doing it. I do not have to do it once I am outside that door. We have not in fact suggested that the economy can grow £150 million in one year. That would not be an optical illusion, that would be a stratospheric illusion so it is incredible that the hon Member who seeks to lecture us on the deficiencies of our economic policies should actually stand up in this House and tell us that we have failed in our economic policy because I promised in last year's budget that in twelve months we would reach £450 million and we have not. It is a physical impossibility to reach £450 million in twelve months. We estimated that with current levels of productivity and with the level of productivity that one can expect to be the result of the move of people from the public to the private sector, there is an increase in productivity. It is an increase in productivity because of changed methodology. The reality of it is that the work that is being done in the maintenance of public planted areas by Greenarc is being done with less people than it was being done by the Government. If those people were unemployed there would be no increase in output in the economy of Gibraltar because we would have fewer people working, producing more and some people not working and producing nothing and the total output would be unchanged. We can only improve output if we are able to redeploy the unemployed. Therefore if PSA is making people redundant and Balfour Beatty is employing less than PSA and carrying out the works contract with less people, there may be a benefit for PSA as a customer but there is no benefit to the economy of Gibraltar if the people who previously worked for PSA are producing nothing at all. The total output of Gibraltar is the same except that there are now fewer in Balfour Beatty producing more and some registered in the Employment and Training Unit producing nothing. Therefore the answer to the last question from the hon Member is that we have no misunderstanding of what was meant by an optical illusion then. What we were being told then was that the growth was unreal. If the growth had been unreal then, in fact, the reduction in the construction industry in 1992 would have produced a decline in the economy; that has not happened. There has been growth outside the construction industry but not growth which can sustain the increases produced by the construction industry but sufficient growth to compensate for the decline there has been. This is why, although we have lost 500 construction jobs we are producing £30 million more in the economy than we were a year before but less of that production is coming

out of the construction industry. Therefore in looking in 1996 for an economic output of £450 million we would expect that the proportion of that £450 million would be considerably less than the proportion that there was in 1991/92 of the £300 million due to the construction industry. But, of course, hon Members got it wrong in 1992 when they were arguing that we had created an optical illusion by having borrowed £100 million and spent it because we had not spent it at the time of the election. We have spent it since the election. So they got it wrong there and they cannot come now and say, the Government Member is boasting about the fact that the public debt is £92 million at the end of March and that will worry the people outside. It will worry the people outside if they have short memories. If the people outside remember that what the hon Member put in the manifesto was that it was £100 million and rising then it would not worry them.

If Opposition Members today say, as Mr Vasquez who seems to have a specific source of statistics peculiar to himself, who said today that we have 900 unemployed, well then I do not see how the Hon and Gallant Colonel Britto in his last contribution reads the manifesto of which Mr Vasquez stood which said: "Already in 1991 we have 1,000 and it is on the increase and the prospects are bleak". Mr Vasquez comes along and tells us in 1993 that we have got 900. Well he certainly cannot count because 900 is actually less than 1,000 and not more than 1,000, so he certainly cannot count whatever else he may be able to do. We certainly recognise that we have failed to bring the figure down from 600; we have failed. That was the target we set ourselves in 1992; we hoped to achieve that target but the Opposition Members were either lying to the electorate in 1992 or did not do their homework properly because they said in 1992: "There has been this increase in four years" and there had not been an increase in four years. There had been an increase between July 1991 and September 1991 and the increase was from 300 to 559 and the reason why it went from 300 to 559 is because 259 people got £6 million of redundancy money in August 1991 and signed on the dole in September with £6 million shared between 259, not the Bosnia-Herzegovina picture that we had from Mr Vasquez about starving people, people in rags, people frightened to admit that they were on the dole. None of that was there when the unemployment went from 300 to 600 in the summer of 1991. We have not been able to bring it down. We have had within the last eighteen months, periods of fluctuation in the range of 550 to 600. That is not enough to clearly determine a down trend. We know one thing. We know that of the people who were unemployed in 1991, there are now 20 or 30 still unemployed; that is what we know, of the 259. Some of them have got

difficulty because of their age. There is a problem when people get to their late 50's to get employers to get them on particularly where there is heavy physical work involved. We have got a total of 108 registered unemployed who have been unemployed for over one year, what the community defines as the long-term unemployed for which we have got special programmes organised with the Employment and Training Unit, some of which people are not very keen to take up even though we are paying the wages laid down for shop assistants because they consider that the wages laid down for shop assistants are not sufficient incentive to work. They would rather collect social assistance which we are being told is so low that people can live off. They seem to be able to live on that better than the pay of shop assistants. The logic of that situation, if that analysis is correct, is that something should be done about paying shop assistants more. I am not sure that everybody would agree with that but that would be the implication. If the pay of shop assistant is so low that people prefer to be on social security and social security is too low to live on. I am not sure whether the last speaker is recommending that course of action. When we look at the strategy what I have said is that I have welcomed the proposal of the union that we should sit down with them and the Chamber in unemployment forum to discuss how we deal with the problem of 600 out of work because we are committed to bringing it down to 300 and anything that will help us to get there, as far as we are concerned, is helping us to carry out the policy of the Government. Let me say that it did not require that anybody should go on a hunger strike (with or without inverted commas) to have a meeting with me. It is considerably easier to get a meeting with me than the need to go on a hunger strike. The Union had asked for a meeting before they started on their campaign; a meeting was arranged and then they decided to proceed with their campaign and they started distributing leaflets and they started going round the estates and I cancelled the meeting. I said, "Either you come to me and you make proposals or you go out and campaign, it is a democracy, you are entitled to do it. But what you are not entitled to do is come to me with proposals and say, 'We are working together on a programme' and at the same time you go round campaigning saying that the Government is doing nothing. If you want to go round campaigning, we are in a free society, you can do it. If you want to finish your campaign first and then come back to see me, you see me then but you do not see it simultaneously". Just like I am saying to the Moroccan Association, "You cannot take me to court and sit down and negotiate with me. You do one or you do the other". It certainly does not require that anybody should take me to court in order to have a meeting because I have had millions of meetings with them. The

problem is that however many meetings I have if they do not like what they hear from me I am afraid the message cannot be altered by having more meetings. I am glad that the Opposition Member has recognised that in what we have said throughout of the 1985 date - there is nothing magic about the 1985 date - but the logic of the 1985 date is that if they say, as they do say, that they helped us when we needed them, then the people who helped us when we needed them were the people who were here before 1985. If one can argue that they are being prejudiced by the entry of frontier workers then the only people who could be prejudiced by the entry of frontier workers are the people who have not arrived after the frontier workers. All the people who have come after 1985 have come after the frontier workers who were already coming in. So we recognise that the people who came after 1985, as far as we are concerned, were entering Gibraltar with an open frontier, with EEC rights for Spanish workers, with a situation where the commitment given by Sir Geoffrey Howe did not apply to those who arrived after he made it. This is why we have said that if we are going to have any sort of standard then the standard is if when the Brussels Agreement was signed The Convent in Gibraltar issued, on behalf of Her Majesty's Government, a statement saying that the position of the Moroccans in Gibraltar would be protected then, as far as we are concerned, whether there is a legal obligation or not, there is really a moral obligation to honour that commitment. Therefore anybody who was there when that commitment was made has to be looked at with one light and those who came after have to be looked at with another light. I can tell the Opposition Member that the last time that I looked at the figures there were 71 Moroccan masons registered unemployed. If there are 71 Moroccan masons registered as unemployed and one Gibraltarian, what the Employment and Training Unit does is it sends the one Gibraltarian to all the masons vacancies and after that it sends Moroccans. But it does not necessarily send the Moroccans somebody else would like, it sends the Moroccans that are either getting benefits because the logic is that we send somebody who is getting benefits first, because they are getting benefits, or the Moroccans that have been here longest. The employer might not want the Moroccan who has been here pre-1985, he might want the Moroccan who arrived in 1990, who is 25 years old not the one that arrived in 1965 who is 55 years old. The Unit has to have the right to send to vacancies people who it is trying to help and it sometimes selects people who are older rather than people who are younger because they have got greater difficulty in getting jobs. We therefore reject entirely and we have told the Union, the concept of putting up the vacancies on a board although there is nothing secret

about the vacancies but, of course, it must be obvious that if we put the vacancies up on a board we cannot then say to somebody who sees the vacancy on the board, "You cannot have the job" because putting up the vacancy on the board is an invitation to people to apply for the vacancy. Again, in looking at the role of employers in employing who they like from abroad, Community law is clear. Whether we can do anything administratively or not, what has to be said here is that anything that we do administratively we are doing in consonance and complying with Community law. That has got to be said here. And if anybody thinks differently then they can challenge it but we think we are complying with Community law. Not everybody agrees with our interpretation but that is the interpretation we have and therefore what we did, Mr Speaker, to deal with the situation was to introduce a requirement in August last year, as a result of representations made to us in July. We monitored the situation between January and June last year. We discovered that out of 1,800 jobs, 300 had gone to Gibraltarians and 1,500 to outsiders. We then decided to introduce new legislation saying that everybody has to register the vacancy a fortnight before and there is a penalty of £10 per day per worker which is a late registration fee, not a fine otherwise we have got to go to court and when we go to court the contractor will have gone and disappeared before even the case is heard. So it is a late registration fee of £10 per day. The Leader of the Opposition may shake his head on the grounds of the dizziness of the methodology but certainly the objectives are ones that he agrees with politically. Therefore if it is challenged it is challenged, until it is challenged that is the position. Let me tell Opposition Members what has been the result of introducing that which we have monitored since. I can assure Opposition Members that it is not that we have done nothing with this, we have in fact pursued the matter with Her Majesty's Government. We have made the necessary representations based on the information that we have gathered. We have chosen not to make anything public about this because we do not believe in making this public unless it becomes necessary, when it becomes necessary and when we have achieved the results we want. Between September 1992 and April 1993, 530 Gibraltarians were employed through the Unit. This is part of the 2,040 given by my hon Colleague, Mr Moss, in his case he was saying since the Unit started which was in March 1991. I am talking about since the new regulations came in in September last year when we tightened the system. There was clearly an improvement because in the first six months it had been 300 out of 1,800. But by comparison, and this is really the interesting statistic, in the same period 652 United Kingdom nationals got employed through the Unit of whom 250 were new entrants escaping from

unemployment in the UK where they have got 3 million. We have already made the point to the UK that not only do they dump on us the people they made redundant here, they are also dumping on us the people they have made redundant there; 250 less in 3 million is insignificant; 250 more on top of 600 of ours is significant. Let us face it, if those 250 newcomers from UK had not arrived in that period we would have had 300 unemployed instead of 600, just with that. And I am not talking about the 400 who were already here, I am just talking about the 250 who stepped off the plane and got a job within a matter of weeks. We have to address that because otherwise it is impossible, Mr Speaker, for any Government with any policy to bring unemployment down. That is why I have said we need to review because if I have 14,000 jobs and 1,000 people come from the UK and take 1,000 jobs and I then have 15,000 jobs and another 1,000 people, it does not make any difference, I can have enough jobs to fill the whole of Andalusia and we will still have 600 of our own unemployed. We have to find a way of ensuring that there is some correlation between the economic activity that we generate and the impact it has on our domestic unemployment otherwise we are in a treadmill and we can run a lot and be in the same place. In the same period, 354 Spanish nationals got employment; 127 Moroccans got employed as well so it is not true that they do not get employed although it is true that compared to the other nationalities they did less well; and 170 Portuguese and 55 Danes of whom we hear so much. The Danes were the lowest nationality group in the lot that got employed in a period of eight months. When the Unit provides vacancies for people locally it frequently finds that the employer already has in mind who they want to employ and I can assure the House and I have assured the Union that, in fact, it is extremely unlikely that anybody other than the Gibraltarians and the Moroccans would have been provided by the Unit. The other people were people who found the job under their own steam and where if the employers really insists on it, at the end of the day there is nothing we can do about it. That is the truth of the situation. Opposition Members can say they disagree with our policy; they are entitled to disagree. They can say that we are failing to achieve the results that we said we would, they are entitled to do that. That is a role that is legitimate and genuine for any party in any democracy. What is not legitimate is if the Members then go on to say: "But the reason why people do not get jobs is because their faces do not fit, i.e. the 530 Gibraltarians must have been GSLP members and so presumably the 652 UK, the 354 Spaniards, the 127 Moroccans and the 170 Portuguese". That is a nonsense but to place the doubt in people's mind that the Government and Ministers are devoting, as they are, 10 hours and 12 hours a day to the job to put into special

cosy, cushy, featherbedded jobs their friends and family, that is, Mr Speaker, not only unacceptable, it is an insult to the integrity and the dedication of my Government and my Ministers. Therefore, as far as we are concerned, we do not have to put up with it. We do not have to put up with it from Opposition Members or from people outside this House because we have gone to the people of Gibraltar in a democratic process eighteen months ago and we have defended ourselves against those accusations and respect for democracy means that the Opposition Members are entitled to criticise our actions but they are not entitled to carry out a campaign of denigration and insinuation and rumours which has been rejected by the electorate. If they do it then I have to say, not to the Opposition Members because I am wasting my breath with them obviously because if Mr Vasquez says here, as he did, that he believes we are corrupt then if he believes it what am I supposed to do if tomorrow Tom Byrne says in the Financial Times, having heard him say it on the radio, that the Member of the House, the Hon and Learned Mr Vasquez believes the Government to be corrupt? Am I to sue the Financial Times? No, I would sue him if he has got the guts to repeat it outside but he has not. He uses and abuses the privilege of being a Member of Parliament to say things that he would not dare to say outside Parliament because he would find himself in court and it is not Tom Byrne that I will take to court. I will take to court whoever we catch putting out these rumours. I can tell the House that at my last meeting with the Union they brought me a leaflet. I am surprised they have not quoted it since they have obviously collected jokes and all sorts of other things I imagine they might have as well come across this unsigned leaflet circulating in Gibraltar which starts off by saying that we are in the process of creating a new union - there is no reason why we should be because we are perfectly happy with the one we have got today even if occasionally they get a little bit antagonistic and upset. We have dealt with them for 20 years and we know what makes them tick. But, of course, this also says: "Did you know that the British Government after investigating the Baltica corruption whereby the Minister for Trade and Industry is alleged to be involved" - it is always alleged, we cannot find who is the alger, we can find that there is an allegation but we can never pin down who the source of the allegation is. I wish we could. I will not say graphically what we would do, but it then goes on to say that the British Government has given an ultimatum to me that I have to agree the airport agreement or else they will expose the corruption. Presumably the British Government is as corrupt as we are since they are prepared to trade the corruption for a deal on the airport agreement. I do not know if that is why the Leader of the Opposition was urging me today that

I should show my enthusiastic support for talks on doing a deal on the airport. I cannot win on this one because if I succeed in doing a deal on the airport that will enable him to provide the necessary evidence to the anonymous writers of this scurrilous piece of shit that, in fact, the proof of the pudding is that the corruption has never materialised because I have agreed to the airport deal. I can tell the Opposition Member that it has been put to me that the source of that particular titbit is within his party and I can tell him that I have rejected it. I give way.

HON P R CARUANA:

I am grateful to the hon Chief Minister for giving way to me. I can say that we did receive a copy of that piece of paper in our party offices some months or weeks ago, I do not remember exactly when. I can offer the Chief Minister my personal assurance, for whatever he might think that is worth, that my party has had nothing whatsoever and the Chief Minister has seen for himself how when we feel that we want to say things, as we enjoy the privilege of the House and we say it, we do not have to have recourse to anonymous and I agree scurrilous bits of paper to put about our political message. So I would urge the Chief Minister to accept my assurance that he has been quite right in rejecting the allegations that it has come from the GSD.

HON CHIEF MINISTER:

Let me say that I have not asked for such an assurance, Mr Speaker. I have rejected the view put to me without even questioning it or asking for an assurance because I have said to the person who said it to me, "Look, I have been 21 years in politics and I have always had one golden rule, if what you tell me is true then I am going now to pick up the telephone and I am going to call Peter Caruana. Do you still maintain that?" And I have never yet in 21 years had to pick up the telephone, ever. It is easier, let me say, to pass on the rumour and embellish it than to kill it at the first step and therefore, as far as we are concerned, what is serious about what has happened in this House today is that it has gone beyond where it has gone before because in the motion that the hon Member brought on the presentation of the accounts when, in fact, the Hon and Gallant Colonel Britto brought his motion on the Public Accounts Committee, in that motion on page 166, the Leader of the Opposition was saying about the way we have changed since 1988, not since 1992, since 1988 the presentation and the compilation of the Accounts of the Government, he said: "I am not concerned with what he did last week" - talking about me - "or last year or what today is his intention

about what he is going to do the day after tomorrow. What I am saying is that he has erected a structure which entitles him to do as he pleases and I am grateful to him that sometimes he pleases and chooses to do things properly otherwise you would be doing it improperly all the time". That is what he said. And I immediately interrupted him, and I said: "What do you mean by improperly?" The hon Member said: "In what context, I beg your pardon?" And I said: "In the context that you have just used it". He had a sudden bout of amnesia having just said it, and said: "I cannot remember the context in which I have used it but certainly it was not improperly and again I have emphasised it a million times in the context of misappropriation of funds if that is what he is concerned about". Well, fine. If the hon Member says that as a matter of political philosophy they believe that we should have all the accounts of all the Special Funds brought to this House and that the fact that we have got more Special Funds now than there were before 1988 means that although they were never brought before 1988 we should have changed the system in 1988 because we expanded the role of the Special Funds, that is something they are entitled to defend in an election campaign. They are entitled to remind people about for the next four years and they are entitled to put before the electorate in 1996 and if the electorate thinks it is so important no doubt they will not vote for us. But we went to an election saying that we were going to continue with the system that we had introduced and what they are not entitled to do in a democracy is to say that they have got the right to make us adopt their manifesto instead of the one we got elected on because otherwise we deserve to be called crooks because that is effectively what the Hon Mr Cumming was saying. He was saying "Well, if we do not want people to think we are corrupt we should not then be so secretive and we should not refuse to give them the information". No, if he were in Government and he refused to give me information and I have been on that side of the House for sixteen years and when we were being refused by the Financial and Development Secretary information, I did not say "Well, that must mean you are corrupt, or that Sir Joshua Hassan is corrupt because otherwise you would be answering my questions". I complained about the lack of information but I had to lump it because at the end of the day the rules are very clear. The Opposition can ask questions and seek information and if they do not get it and the Speaker rules that they have exhausted the matter and they go to the next question because they are not going to get an answer to what they want. All oppositions in all parliamentary situations are in that position. That does not give them the right to question the honesty and the integrity of people and if Opposition Members question our honesty and integrity as individuals then we

have got to understand that what we are doing to this House which is not normal in a Parliament. What we are doing to this House is that we are transferring our political differences to a personal plane and the Hon Mr Vasquez is wrong if he thinks that we want a cosy relationship with him. We do not want to be seen dead in the same room with him, that is the position. We have to tolerate his presence because we have no choice because he has been put there by a minority of the people of Gibraltar but once we go out of this door we do not want to talk to him, we do not want to exchange minds because I do not want to have any relationship with anybody that says to me that because I am defending the policy on which I am elected it must mean that I am a crook and that he believes that I am a crook because if he believes that I am a crook. If I believed him to be a crook I would not want anything to do with him. If he believes I am a crook he should not want to have anything to do with me. The fact that he believes me leads me to think that what he is saying is that a politician, given the opportunities which he thinks we have created to put his hands in the till cannot be trusted not to do it. That is in essence what he says. That tells me something about what he thinks and the controls would be needed on him if he were in power, that is what that tells me. Let me say that there is of course in the emphasis of the Opposition Members, a fundamental contradiction in the arguments that they put because I do not think they understand half of what they read in the information which they have which they claim is not enough. The Leader of the Opposition clearly has read the Principal Auditor's report for 1991 that I suspect not any previous one because the statements that he was making were an indication that he thought he had discovered something about 1991 that he would not have found in any other previous year which suggests that he did not look at any previous year. If he had, he would have found and I have got photocopies of it for him if he needs it, that the audit certificate for 1989/90, 1988/89, 1987/88 and 1986/87. The 1987/88 one was done after we were elected, just to be sure that it was not that Principal Auditors got scared the moment we step into the door. We find that there is the same qualification in the audit certificate. I can tell the House that I have of course, as I always do, gone back to the Principal Auditor and I am authorised to tell the House that as far as the Principal Auditor is concerned the accounts are not qualified and that in fact he would not have issued a certificate. The accounts say "subject to the comments contained in my report in respect of 1991" and it says "subject to the comments contained in my report" in 1990, in 1989, in 1988 and in 1987 so it says exactly the same thing in the same audit certificate. The comments in each year are about different aspects of the accounts but

in each year we could say the comments qualify the certificate, in each year. So they have either always been qualified or they have never been qualified. I can tell the House that the Principal Auditor has authorised me to say that if in fact he had any doubt about the propriety of these accounts or the correctness of the accounts, then he would not have signed an audit certificate. Let me say that if we had interpreted what he had said in the way the Leader of the Opposition has said we would not have brought it to the House. Obviously if His Excellency the Governor had put the interpretation on that that the hon Member has done, His Excellency the Governor would not have sent it to me. If Tom Byrnes in the next article of the Financial Times writes that now there is a question mark about the audit by the Principal Auditor of the Crown as to the correctness of the accounts of the Government of Gibraltar then I imagine that the Hon Mr Corby will have another sleepless night because our image internationally is being damaged. [Interruption] No, it is being damaged by irresponsible comments by people like the hon Member. People like him who are sick and whose sickness is reflected in the way they behave because for somebody who does not know any better to say what has been said here is forgiveable but what cannot be done is say in the same breath and against the same background as the remark just made by the Hon Mr Cumming that we are giving a bad reputation to Gibraltar. Mr Speaker, the reason why the Principal Auditor wrote in the 1991 report that he was not happy that he had the necessary resources to audit the work of the private auditors was because of an item that he raised in the previous year's accounts. I do not know whether the hon Member has read it but in the previous year when he took up appointment he mentions it in fact in paragraph 10 of the previous year's report. In the previous year's report he said that a decision had been taken to put a number of departments into the hands of private auditors. Let me say, for the avoidance of doubt, that that decision was a decision that we took politically on the recommendation of the previous Financial and Development Secretary. It was not an initiative of the elected Government. The previous Financial and Development Secretary believed that the fact that neither the Principal Auditor nor any of the other people who are auditors in the Department have got an auditing qualification or an accountancy qualification. The previous Financial and Development Secretary, in case hon Members do not know was a qualified Chartered Accountant and he believed that the work done by the Audit was a work done simply on checking the balance between the authority for a Head and the expenditure charged to that Head. So that if we voted in this House £1,000 for fuel then the Principal Auditor would come along and say, "They have spent £1,000 on

buying a spare part, that is wrong because there is no proper authority for that. The authority was for fuel". What the Financial and Development Secretary believed was that because they did not have a background in accountancy and a training as chartered accountants they were in fact failing to go beyond that initial stage and looking as to whether a £1,000 for fuel was a justifiable amount of fuel for the use of that particular van. They should go beyond the actual authority for appropriation and look into the content of the expenditure and therefore he recommended to the Government that we should bring in people who were used to auditing company accounts i.e. Coopers & Lybrand, Price Waterhouse. We went out to tender on his recommendation and the tenders went out on an experimental basis, the result of that was that we naturally reduced the manpower in the Principal Auditor's Department because they were now looking at the work done by other people. Obviously, the position of the Government is quite simple. We are not prepared to spend £90,000 paying private auditors and then another £90,000 duplicating the work in the public sector. It may well be that if the Principal Auditor feels that he has more control the way it was done before, then the new Financial and Development Secretary will look at the matter again and consider it but of course when the Opposition Member mentions this, he is mentioning it in a debate in this House where what had been most often repeated has been the insinuations of wrong doing and nefarious malpractices. The word malpractice has been used. I have to say that the Opposition Member in his reference to this particular matter said that he could not understand how having had a complaint in 1991 about the lack of resources here we come in 1993/94 and we cut the resources down in Head 1: Audit. We have not cut the resources down in Head 1: Audit, the hon Member will see that in the Budget of last year we provided £76,000 for personal emoluments and that in fact they spent £90,000 because they did £12,000 of overtime and this year we have given them £2,000 of overtime where last year we gave them nothing and on top of that if he looks on the previous page 21, he will find that the complement has involved upgrading a post from Executive Officer to Higher Executive Officer and that is as a result of the discussions that have taken place between the Principal Auditor and the Administrative Secretary following the 1991 report. In fact, I can tell the House, Mr Speaker, that the report of the Principal Auditor is not a report about the conduct of Ministers. We accept political responsibility. We accept that we have to answer here in the House for any mismanagement that Heads of Department may allow to happen because we carry that political responsibility. What we cannot accept is that Opposition Members argue that we are interfering with the Heads of Department, that we are not allowing them their

independence as civil servants because nothing in the Auditor's report to which hon Members have referred involve any political decision-making at all. None of it so when the Principal Auditor says that he has written six times to the then Housing Manager, who has not replied, he does not say he has written six times to the then Housing Minister who has not replied. We accept that that is wrong. We accept that we have to answer in the House for it but what we cannot accept is that in fact the Housing Manager was acting on instructions which were a policy decision not to answer the letters of the Principal Auditor; that would be a nonsense. I give way to the Leader of the Opposition who wants to say something.

HON P CARUANA:

I am grateful to the Chief Minister. Let us just be clear about what I have said and, incidentally I maintain. The Principal Auditor's duty to audit the public accounts of the Government of Gibraltar is contained in the Constitution and that has nothing to do with the political will of the Members. He has that constitutional duty which has nothing to do with his position as a civil servant or as a controlling officer. He appears to be under the impression, which of course the Chief Minister might say he disagrees with, that given what his constitutional and legal responsibilities are, he cannot discharge them just by appointing private auditors and that even when he has appointed private auditors he still retains an obligation to do.... [Interruption] This is what he says in his report. In paragraph 813 of the report on page 46 he says "hence, although the work of secondary auditors is subject to monitoring and review by them there is a need for the primary auditor, namely myself, to exercise a monitoring function as the audit is being undertaken and at the end review the auditor's working papers to ensure that (a) the agreed audit programme has been carried out (b) there is evidence that the relevant working powers have been subject to review and that any points arising have been dealt with and in particular focus attention on results of testing and audit conclusions drawn, (c) the conclusions that are drawn are properly supported by documented audit evidence; etc. etc. etc." The man appears to be of the view that notwithstanding the privatisation of certain audits he still has to conduct a review of their audit to check, (a), (b), (c), (d) and (e) and what he has said is that he is concerned that as a result of lack of resources that contrary to what the Chief Minister has just said had been withdrawn from him as a matter of political judgement by the Government as a result of that political decision to reduce his resources, he is concerned that he has not been able, due

to lack of resources, to effectively monitor the conduct of the audit. Therefore what he is saying is "I, through lack of resources, do not consider that I have been able to discharge my constitutional functions as Principal Auditor" as he sees them. That is a qualification. Certainly, of course, we know that in every year there is a Principal Auditor's report which goes into many things and that when the Principal Auditor's certificate says "subject to the comments in my report" that is tantamount to a qualification and that has been happening I suspect since the first accounts of Gibraltar was ever written. But in the context of these particular comments, contained in these particular audit reports, what he is saying is fundamental. What he is saying is that he has not been able through lack of resources to do that monitoring programme of the private auditors that he thinks he needed to do and therefore when that gets carried forward into the audit certificate by words "subject to what I say in my audit report" it is a bit more fundamental than what is habitually said from year to year, subject to my comments about the Housing Manager not having obtained this virement or subject to the fact that this or subject to the fact that that. This is a fundamental comment. What he is saying is that he has not been able to conduct his audit as he understands. Government Members may think that he has a false understanding of what his obligations are, as he understands what he is required to do.

HON CHIEF MINISTER:

And I am telling him that the interpretation which is his interpretation is not the interpretation of the Principal Auditor, that if that had been what the Principal Auditor intended, I would not have brought this report to this House and that if the Principal Auditor tomorrow tells me that this is the case I will have it audited again. I will have him do again 1991. Let me tell him that because in fact what we are talking about and it is quite obvious that..... Mr Speaker, if Opposition members raise points which concern them and they get an explanation and they ask me to give way and then they simply repeat what they were saying at the beginning as if they had not had an explanation what it demonstrates consistently is that they are not interested in explanations. They are interested in making a point and even if you say to them "Look, the guy that wrote the comment does not agree with the conclusions that you have drawn from that comment" it does not make any difference. What is the point of making it? I am saying to the hon Member that if his views were right I would go back tomorrow to the Principal Auditor and I will tell him "The Leader of the Opposition claims that the implication of the comment is that you are not satisfied that you have enough resources

to audit properly the 1991 accounts". [Interruption] Yes and if the consequence of monitoring or not monitoring..... and let me make clear what it is we are talking about. We are talking about whether an individual employed in the Department gets paid £20,000 or £24,000. [Interruption] It seems to me, Mr Speaker, that it is legitimate for the hon Member to try and latch on to something where he thinks there is an argument that he can use to political advantage. That is a legitimate thing, but if that is not what he is doing, then surely he has enough knowledge of life to be able to draw the conclusion by going back as I have invited him to do to what was said in the previous year because the hon Members seem to have read part of it and not the whole of it and the whole of it is that it says "as I must reiterated what I stated in paragraph 10.1.5 of the 1989/90 audit report where I drew attention to the fact that as a consequence of privatisation of the large part of the audit programme, the Senior Auditor post in the Audit Department had been removed". Then if he goes back to that he will find that the proposal was one Senior Executive Officer and then if he goes to the back of the Estimates he will find that it means that instead of the post, that I have just drawn to his attention, being upgraded from EO to HEO, it would mean that the post would be upgraded from HEO to SEO. The position of the Government is quite simple. We have one official making a recommendation to us on the basis that we would get better value for money by using contractors who are chartered accountants to do part of the audit. We are satisfied, frankly, that the result of that has been an improvement, as far as we are concerned, as policy makers. We have got more information than we had before but the bottom line, from our point of view, is that the Audit Head which was £154,000 in 1991/92 is £178,000 this year; £28,000 more than in 1991/92. Whether we spent £178,000 in employing civil service auditors or in employing contractors, the bottom line is that we have got £178,000. We have not got a political preference for one or the other. This has not been imposed on anybody. This was a proposal which we accepted and when we accepted it what we did was we restructured the Department to make savings in Personal Emoluments to compensate for the contract of £90,000 that we have there. The position is that since that report, the comments of the Principal Auditor have been put in front of the Committee which looks at the Principal Auditor's report which is not a Public Accounts Committee made up for Members of both sides of the House, because we do not support that. It is a committee made up of Government full time officers because the Principal Auditor's report is not for him to question the policy of the elected Government but to question the implementation of that policy by civil servants. Therefore, it is up to the civil

servants to make sure that they look at the areas that the Principal Auditor's report highlights. This is done by a Committee which is made up of the Administrative Secretary, the Accountant-General, the Financial and Development Secretary, who had last year, six or seven meetings and called in the Heads of Department about whom comments had been made to ask them to explain why the deficiencies that had been highlighted by the Principal Auditor had occurred and what remedial action was going to be taken to put it right. None of us involves the elected Members at all. We are trying to do it. We do not want to have anything to do with it. This is part of the independence of the administration of which the Opposition Members are so anxious that we should maintain. It is being maintained. So this report I am only giving a reply to the hon Member because he has highlighted it and I want to make it abundantly clear where we stand politically. It has not been imposed. We are not seeking to interfere with the independence of the Principal Auditor. We do not want to diminish his role and therefore if, as I said, there is the slightest hint that these accounts are deficient because they are not properly audited I will go back to His Excellency the Governor and ask him to call in the Principal Auditor and say "I want a new audit". If there is any doubt at all I want this audited all over again. But certainly any concern that anybody outside the House might have misinterpreting what the Opposition member has said and getting a perception that this means that now the accounts of the Government of Gibraltar are suspect, I hope has now been put to rest. I am not accusing the Opposition Member of having another intention. I am saying that it is no good saying, "Well, the international image....." The hon Member said, in his contribution, that the image of Gibraltar inside and outside Gibraltar about the accountability and the propriety of the way we were running the system was suffering and that this was having a negative effect. This must be something they must discuss amongst themselves. I cannot imagine the Hon Mr Corby, frankly, from whom I least expected it - I think that is the remark that my colleague was making that it is not the type of thing he normally says. I suppose if he thinks that people are not coming to invest in Gibraltar because of the banana republic image which the Hon Mr Vasquez claims we now have, I do not think it has anything to do with when he was in Barclays Bank because in fact we were in Government when he was in Barclays Bank and we had an investment boom and Barclays Bank actually made a lot of money between 1988 and 1992 with the same bananas running the republic as there are now. It cannot be that he heard it in Barclays Bank; he must have heard it since and it is not likely. In fact, we have a great deal of respect because we accept that he criticises us in his

particular things that are important to him which he feels strongly about like drug rehabilitation etc. With respect, at the end of the day, as he himself has told us, he always tries to be constructive. Well, I am afraid, if he was putting the view to us in a constructive spirit that we need to do something to change the external image, what we need to do to change the external image is adopt the manifesto of his Party then the answer is no. Therefore, since the manifesto of his Party, which the hon Member has quoted, in fact contained the same allegations and insinuations that have been made since here and obviously they have every intention of continuing to make between now and 1996. What is the good of the hon Member saying to us "You have to change the system of granting contracts because by not having a tender system what you do is you create the suspicion that you give it to all the friends" - in-crowd that the Hon Mr Vasquez talks about? The business community who only need to go to bed with us in order to be totally inside the system of the Government. The Opposition Member cannot say that because the truth of the matter is that in their manifesto what they said about the tender system was: "The public tender system abolished - Government contracts given in private at the personal whim of a Minister". They did not say by not having a tender system people may think this is happening, they alleged it black upon white and they went to the people and they said to the people "Do not vote for this crowd because it is Ali Baba and the forty thieves". Like the Izquierda Unida they said on the other side of the frontier. The people on the other side will find no better friends in their propaganda war than the comments made by Opposition Members. But of course if the people of Gibraltar believe them, then 73 per cent of us must be the 40 thieves. So I am Ali Baba and the 9,000 thieves because 9,000 people voted for us, believing in them or else did not believe them and of course I am not surprised that people did not believe them because, Mr Speaker, one cannot be in public life 21 years and have one's name dragged through the gutter by people who have been in public life three days. In Gibraltar we all know each other. The Hon Mr Corby and I have known each other since we were kids. The Hon Mr Cumming and I have known each other since we used to quarrel with each other in Transport House, so all of us go back a long time and it will not work in a small place like Gibraltar. One can invent as many rumours as one likes and can embellish them as much as is liked but at the end of the day the proof of the pudding is in the eating and there can be as many investigations as we want, as many Scotland Yards as we want, as many Fraud Squads as we want, as many international articles as we want and since there is nothing to find nothing will be found. People can believe it or not but certainly we do

not think that it is in the public interest that we should be running around like a headless chicken denying every rumour that everybody wants to invent every day of the week. So what do we do? We now say we put adverts in the press saying "Disregard all the dirty jokes going round town which the hon and gallant Member has been quoting in the House. Disregard this leaflet. Do not pay any attention to Tom Byrne. Do not pay any attention to what Mr. Vasquez has said". The answer is no, we are getting on with the job of carrying out what we promised the people of Gibraltar we would do in 1992 and we will be judged in 1996 by the degree of our success and Opposition Members, as I told them immediately after the election and I would remind them that when we had the count in the Mackintosh Hall I said, "As far as we are concerned we have been elected to be the Government of the whole of Gibraltar. Those who voted for us and those who did not". But during the election campaign some Opposition Members have come that close to being libellous and we are going to put it behind us but if it continues then I am putting everybody on notice that the moment that we catch somebody making a libellous remark we will take them to the cleaners. We cannot do it in the House but we will do it the moment it happens where we have a witness and he is prepared to come forward. [Hon Member: The Danish newspaper.] That is a matter of judgement for the Government of Gibraltar because the Danish newspaper and the Express in the UK and Tom Byrne claim that the source of the information is in Gibraltar and we want to get to the source.

[Interruption]

MR SPEAKER:

Order. Order. Order.

HON CHIEF MINISTER:

Mr Speaker, whether we choose to sue the newspaper or not is a matter of judgement for us. As far as we are concerned, they would like us to sue a newspaper. What they would like us to do is to have a court action running three years so that then every time the matter comes up in the action it will give them more ammunition to build up their innuendos and accusations and we are not going to give them that privilege. As far as we are concerned, we are satisfied that it would be against the interests of Gibraltar for us to go into litigation with every newspaper that published anything which is in all cases as far as we can tell, attributed to sources in Gibraltar. As I said to the hon Member, if the remarks that have been made in this House all of which are broadcast over radio and are published, we would be able

to sue a lot of newspapers for publishing that but there would be no question as to what the source was. The source was the statements that have been made in this House. I am going to the source. The source is this manifesto. The source is the dirtiest election campaign in the history of Gibraltar in 1992 and the poison in some of the Opposition Members that makes them go through life thinking that everything that we do has some ulterior motive. I do not know for what because they have been talking about all the holiday villas we are supposed to have in the Mediterranean. If I was in opposition, as I have been for sixteen years, and I thought that a member of the Government had a holiday villa in the Mediterranean to which he was not entitled - let me say, as far as I am aware, nobody has a holiday villa, I certainly do not have a holiday villa - then I would not make snide remarks in the House of Assembly, I would go public in print and let them take me to court. If the hon Member thinks that there are Members here who have got holiday villas which they should declare and they have not declared, and it is wrong that they should, let him say so after we finish in the House today. Then we can sue him and he can prove he is right and that we are liars. That is the option that he has. What he cannot do is, under the protection of the House, simply throw this out because in fact what we say to him that he belongs to the Sotogrande crowd, which he does, and which reflects by, for example, using things like fuddy duddy. Certainly nobody that was brought up in the school that I was brought up in used fuddy duddy, he would. It is as good a linguistic mode as any other but it is certainly not the linguistic mode that I have ever seen on picket lines. It is the first time that I have seen fuddy duddys on picket lines and it is only since the Opposition Member has discovered a love of the working class which makes him join hunger strikers, join people on picket lines because the hostel in Devil's Tower Road is being put under private management - which is going to save some public money. I can understand that they may feel that they have to be all things to all men. It will not work in Gibraltar, people know on which side one is. We come from a working class background. It is the way that we have entered into public life from that corner of society. We work closely with any businessmen that are prepared to work with us and at the end of the day we are doing it not to enrich ourselves but to be able to fulfil our electoral promise which is to maintain full employment, to create more housing, to improve and create the kind of society that we should all want. It is legitimate in a democracy for Opposition Members to say we are not doing it well. It is legitimate for them to say they could do it better. It is legitimate for them to question the success or the failure of the policy and to say that they would have a different policy. All that

is legitimate but it is not legitimate to question the integrity, the honesty, the dedication and the good faith and that is being done. Therefore, I have to tell hon Members that we are not going to change and that if they want in 1996 to go back to the people to tell them that this is a dictatorship, that everybody is scared, that we are all corrupt, that we have done away with the kind of systems where we can give all the contracts to our friends. They can do it and if people believe them they can then have the job but we are not going to change the policies on which we have been elected. We went to the people; we defended the system; we intend to continue with it and I can tell Opposition Members something else. If the position that we have in the House is that when Opposition Members seek information they simply discard the information that does not suit them and then twist what suits them in whatever way they like, they will not be getting more information, they will be getting less.

HON P CARUANA:

Mr Speaker, I am very grateful to the Chief Minister for giving way to me. I just wanted to catch his ear once on the subject before he moves on. For the sake of the record, does the Chief Minister really believe as he has in the last few minutes implied, or perhaps stated more than implied, that the contents of this article that appeared in this Danish newspaper that we are the source of the rumours contained in this Danish magazine, mentioning names of individuals and names of companies that we would have known from Adam, Danes? I do not know, I would not notice any Mr Hemings Scott who walked in through that door and I do not know who Rex Holding is. Did he just mean what we were saying during the election campaign or does he now attribute to us the source, because that is what he sounded like five minutes ago, that he attributes to us, he regards us as the source of the rumours contained, and the allegations contained, in this newspaper article in Boersen?

HON CHIEF MINISTER:

Mr Speaker, what I am saying to the hon Member and I am making a specific and clear cut accusation, no insinuation; I do not know whether the mention of specific companies in that article is accurate or inaccurate and I do not care. I am talking about the image of the Government of Gibraltar as a corrupt government. That image was engineered in the 1992 election and has been kept alive by Opposition Members when they talk to the press coming here, when they talk to visiting parliamentarians and whenever they have an opportunity. When they say that there is no Public Accounts Committee, "It is scandalous, the only place in

the Commonwealth that has no Public Accounts Committee". It is a fact that the Public Accounts Committee was abolished in 1984 by the party in Government to which the Hon and Gallant Col Britto belonged. This is a fact. It was abolished by the then Government when we were in opposition. If he goes round saying to people "The GSLP came in in 1988 and they did away with the Public Accounts Committee" people will ask why have we done it. But that is the impression that they create. The impression that they create is that we have fabricated a system. The hon Member has said it. A system which permits..... [Interruption] Yes, because we do not agree with it, because it is not our policy, because it is in their manifesto. Do not they understand that they cannot run Gibraltar with 20 per cent of the vote from that side of the House. They cannot do that. They can defend their policies but what they cannot say is we are undemocratic because we do not do what they want. We are the majority. They are supposed to do what we want. That is what the democracy is. That does not make us dictators because for 16 years we had to do on that side what Sir Joshua Hassan and the AACR wanted although I have to say that we never ever in the 16 years took the kind of line that the Opposition have been taking here since the 1992 election on more than one occasion. Never! Therefore the Hon Mr Vasquez is totally wrong when he says that in all the years that I have been in opposition I never made any constructive proposals. That is wrong! The fact that he is saying that and that is a lie, but it is a lie which is not a deliberate lie because he does not know what I was doing, because he was not interested in the House of Assembly, he was interested in registering companies before, so he could not know what I was doing. He was not paying any attention but it is in fact not true because there are many, many occasions in Hansard if he wants to read between 1972 and 1988 when I made constructive proposals which were accepted by the Government and there were occasions when I voted with the Government. Mr Speaker, the hon Member was saying that my hon Colleague was complaining about him and in fact all that they were doing was being the kind of opposition that I have been and that oppositions are there to oppose. It is their prerogative to do that if that is what they want to do. They are entitled to do it. They are entitled to oppose whatever we do on the basis that if we propose it it must be bad. That they are entitled to do because there are political parties that believe in doing that and that is a legitimate political position to take. I am not saying they should not take it, all I am saying is I did not do it. That is all I am saying. If they want to do it that is up to them but it does not entitle them to draw the kind of conclusions they seek to draw because we disagree with them.

If I can now deal with some of the specific things, Mr Speaker, let me say that the Opposition Member asked me are we facing a potential cash flow position. As to their understanding of the accounts and their arguments about what is missing and what is not missing and what they can see or not see, we actually have given them an explanation before of how we restructured the finances. It may suit them or it may not suit them, they may understand it or they may not understand it but we are certainly not going to give it and I am certainly not going down the route of explaining for the 'nth time because the Hon Mr Cumming said that when he saw £128 million in the Gibraltar Investment Fund it sent shivers down his spine. He will have to stay with the shivers because I am not going to give him the explanation again which show that that money was now in the Improvement and Development Fund and had all been spent. I am afraid he will have to stay shivering. [Interruption] Mr Speaker, I have already explained to the hon Member that the money has gone through the Fund, through the Company in the Improvement and Development Fund and voted here. All they need to do is to use a pocket calculator and they will be able to work it out. He will not get the accounts for the companies but I can tell him that it is a relatively simple exercise to work it out. If he cannot do it, then it is hard luck. I used to do it all the time. I used to spend, in one particular office, days with all the pages of the Estimates spread round the floor and I would go from one page to the other with a calculator and come back here and be able to piece together things that maybe the Government had wanted to present in a particular light and they had not been able to get away with it. I had the facility to be able to do it. The hon Member may feel that that is the case. We have given a very clear exposition of the strategy from 1988. The hon Member, when interviewed on television in last year's Budget said that what they were objecting to was something that he recognised had started in 1988. He himself said last year that no doubt the process was now nearing completion. I said in this New Year's message that the process was now completed. He said on television that all he could do in a democracy was put his complaints in public so that people would see that they were not satisfied with the way we had restructured it. Fine, and they are entitled to say that if they get elected they will go back to the system as it was before. They are entitled to do that if and when they get elected but it will not happen while we are the Government and we will defend it in 1996, like we defended it in 1992. If we want to have an argument about it every time we meet we will but we will still not change. It is not possible to give him an answer as to the question of a potential cash flow crisis because as the hon Member himself knows,

because he has made reference to it in the past, we have created the facility that we can make an advance from another special fund to another special fund and ultimately we will only have a crisis if every single special fund runs out of money. In fact, we have got the safeguard that if the Consolidated Fund got into serious trouble..... it certainly is not in a healthy state, it is not in a healthy state because we have diverted revenue flows to other activities. If we put certain revenue to redeeming the public debt; the £50 million in the year 2005, this is not because the House will now not have to vote the money. The House never had to vote the money. This is not because we want to hide money away from people, this is because we said in the manifesto in the election that if we got in we would put in a mechanism which would guarantee the repayment of the debt of £50 million in the year 2005 when they were saying that we were going to be leaving a debt there for future generations of Gibraltarians. [Interruption] Well, that is one of the votes, what are the others? The others are the Gibraltar Investment Fund and the Social Assistance Fund, those are the other two. We created those two in 1988, not in 1992. We defended in 1992 what we had created in 1988. We are entitled to do that. [Interruption] Yes, so it is not wrong, it may be unacceptable to Opposition Members. They may wish to do it in a different way but it is not that we are doing something unconstitutional, illegal, malpractice, funny, strange, under the carpet. No, we are doing something that we introduced in 1988 that we legislated in 1988 without the support of the AACR. They voted against. The hon and gallant Member was here and he voted against that policy and therefore it is perfectly correct that if he voted against it in 1988 he should in 1992 go to an election and say to the people "I think what the GSLP did in 1988 was wrong. We voted against it and if you elect me and I am the Government I will change it". That is the appropriate thing to do. Just like it is perfectly right for me to say "I voted to take away the Public Accounts Committee in 1984 and in 1988 I still believe as I did in 1984 when I was there". In 1984 when we were the seven Member of the Opposition we said to the AACR that we did not want the Public Accounts Committee. The Opposition said it. So why should we the Government agree to do something which we did not want done as Opposition? Why? Those are the facts.

Mr Speaker, let me say that in the contribution of Mr Cumming this year he made a couple of positive suggestions particularly that of looking at the level of overtime and seeing whether in fact there should be less overtime and more people employed. I think that is something that is worth looking at but it may not be a very popular thing as he I am sure realises but it is

certainly worth looking at. I also think for example the question of the training students without a job guarantee. Again it is not an easy thing to deliver. We have been looking in other areas of training and one of the problems is that if we are training people what we cannot do is train them without a job guarantee if they expect the job guarantee at the end and therefore we have to be sure that we are training people on the basis that there are going to be jobs for those skills in the market. At the moment the level of staff nurses is 30 over the complement. We have got about 88 as opposed to 58 because we gave crash courses and a lot of people went through them and were successful and we did not expect them to be successful so we have got them but certainly I think there were a couple of positive suggestions there and I believe we ought to look at them although as I say actually translating them into practice may be difficult. I must say I was somewhat taken aback to find out that he has now bracketed us with the civilised countries where the standards of medical services are high and that is why we have so many elderly people. We agree that that is where we are. I cannot agree, however, that we have moved from being third world to being civilised in the last twelve months otherwise good as the Minister for Medical Services is she would have to be superwoman to produce that kind of change in twelve months. The reality is that the improvements in the services have been taking place gradually since 1988 but even in 1988 we were not in the third world. Let us be clear. In 1988 there had been I think a decline particularly in the area of expenditure on maintenance and on equipment which was running at something like £70,000 a year. I give way to the hon Member.

HON P CUMMING:

It was actually in the Minister for Health's budget speech last year when she said "When I inherited it it was a third world". I agree with the Chief Minister that it was not.

HON CHIEF MINISTER:

Then, Mr Speaker, I think in the manifesto if the hon Member will allow me to quote it said "Standards could drop to third world level: BMA". We both agree that BMA were not telling the truth. In looking at the level of unemployment if Members do the exercise, for example, I said that the overtime levels that we had been looking at this year which we had cut back and to which the hon and gallant Member made reference had been running at 75 per cent. To put that in context we have got about 800 workers which are doing 30 hours a week overtime which means the equivalent of 600 workers. That has been cut

back to maintaining duty rosters which is rosters that people operate between five o'clock and midnight, Monday to Friday, between eight o'clock in the morning and midnight on Saturday, and between eight o'clock in the morning and eight o'clock in the afternoon on Sunday. They get paid for those 12 hours, 24 hours on Sunday. That is shared with the duty roster with different people. What we have said is that that an emergency calls out are being paid for and a certain amount of overtime which will be related to the follow-up that we have done in the Housing Department as a result of the comments in the Principal Auditor's report. Following that report, a team was brought in from a chartered accountant that had been doing value-for-money audits in a Local Authority in UK. The result of that value-for-money audit in Gibraltar has produced certain examples of deficiencies in the way the work was being controlled and what we are looking now is ensuring that with paperwork done, rather than for hours clocked. One can clock a lot of hours and the important thing is the output rather than the time taken and that is the way it is being focussed this year which we hope will produce better results than we have had in the past.

HON P CUMMING:

Will the Chief Minister give way? If one needs the skill of, for example, the nurse qualified in eye nursing and he is going to be called out at two o'clock in the morning and it is actually going to take him 20 minutes, he is going to say "Look, do not call me because it is not worth it calling" so an agreement of three hours, four hours seems justified.

HON CHIEF MINISTER:

There has been no reduction in the overtime in the medical services at all. This is in the area like the Department of Employment, the Department of the Environment and the Housing Department which is where the 800 odd industrials are. The people affected are the industrials and their direct line supervisors and managers because the hours of the managers went along with the hours of the workforce. It makes it more difficult for the manager to say to the workforce that they are taking too long if they get paid the same hours. It is looking at the systems like that which showed us that clearly we did not have proper controls but it is not something frankly that we had looked at before. That is the truth of it, we had been doing other things before. It has been highlighted this year, we have looked at it this year and we would certainly have been in serious trouble in balancing the books this year without the overtime cut which has been about £2.5 million. The expenditure would have been £2.5

million higher if we had not cut the overtime to the extent that we have. We have to look for more savings for next year. The Leader of the Opposition suggested a select committee to look at the question of the EC membership for Gibraltar. The answer is no. We do not think there is a need for a select committee because we are very clear what the consequences are and as far as we are concerned, I will look back at what has been provided and what is contained and I will see to what extent we can give the hon Member more information. Let me say it is a very simple exercise. The Community has a Common External Tariff. It is not a question of replacing customs dues with VAT. If we were inside the Customs Union 90 per cent of our products which are Community products, would not be able to have customs dues on. They have to enter duty free. They would, however, enter at a higher price than they enter now because at the moment they are entering at export prices. If we wanted to have, say, duty on sugar today, the fact is that we can put duty on sugar and the sugar is still cheaper after paying duty than it is inside the Community because there is a Community intervention price. If we were inside the Community we would not get the duty because we would not be able to charge it and we would be paying more for the sugar. The cost of living in Gibraltar would suffer an increase of something like 25 per cent. In addition, the Community has already harmonised VAT at a minimum of 15 per cent. That 15 per cent would have to be charged not only on every product sold but on every service provided. A big chunk of the VAT would then go to the Community budget. I am not sure that it is only two per cent, certainly the whole tendency with the cohesion fund is that the rich countries of the north like us should put a lot of money into helping the poor countries of the south like La Linea, that is the whole basis of the cohesion fund in Maastricht. We actually believe that the attraction of Gibraltar because it is perceived as being outside the Community Customs Union and therefore competitively priced whether it is or it is not, the fact that people perceived it as that is something that attracts people here. They come here for, in brackets, duty free shopping. [Interruption] Maybe less and less but if we actually said we are going to join the Customs Union because that way there will not be any queues, there will not be any queues because nobody is going to come. They will not have to stop them in the queue; they will not be coming. We have really looked at it and every time we have looked at it we have come to that conclusion. We do not see that looking at it jointly with the Opposition would produce any new information that would make us change our minds. Quite apart from anything else, let me say that the change in the status of Gibraltar in respect of the Customs Union would have to be negotiated. Both my hon Colleague Mr

Feetham and I were in the committee that was looking at the EC which was as a result of a motion I moved from the Opposition. I say no to the committee, the previous Government used to say yes to the committee and then bill it in the committees. I am not sure which is better, their system or mine. Sir David Hannay came to see us and we remember being told at the time at the special relationship of being inside the Customs Union but being outside VAT which had been negotiated for Ceuta and Melilla was something we could have but that we did not have to make our minds up there and then because the UK had entered a reservation when they agreed to it because it required unanimity from the existing members of the Community. Spain was still out. They said they had entered a reservation saying that they agreed to it on condition that we would have that option at a later stage. Subsequently we have been told that we misunderstood what we were told then and that in fact what we got is the option to go back and negotiate for it but that now the negotiation would include Spain as one of the existing partners and would have to agree to the change. Forget it, that is my reaction. We certainly are not going to get ourselves into that situation over something which is dicey anyway because we can see them immediately raising questions of the isthmus and the sovereignty and this and the other. The Opposition Member argued that this would mean that it would give Spain less opportunity to put doubt as to our membership in the Community and remove a justifiable reason for Customs control at the border once the EFC is in place. There is no indication of the EFC being in place and, frankly, I think that if we are able to resolve the external frontiers difference with Spain, that requires, on the part of Spain, a show of goodwill which today is still regrettably absent which means that there is no reason why they should be unnecessarily difficult at the frontier. Frankly, if they chose all they had to do was to implement what they agreed in 1984 which is to have a red and green channel and the frontier would then be considerably smoother than it is today, because they could have spot checks in the green channel and charge people in the red. The green channel and the red channel is in our side but it was never implemented on theirs. That is all they need to do and it would make a very big difference to the operation of the border with customs control even if there was no immigration control as a result of the EFC. The whole question of the EFC may get a new impetus under the Belgian presidency but there are now more people having second thoughts about free movement. The UK is no longer so alone. The free flow of illegal immigrants is worrying France. It is strange because the UK was seen as being the outsider and the anti-European and a lot of other people are now really seeing that there was a certain weight in their arguments

that, if there are no controls at all on the internal frontier one could be letting himself in for a lot of trouble.

I said, Mr Speaker, that I would deal with GBC when we come to the vote and therefore I will not deal with it at this stage. But certainly I accept what the Opposition Members had to say that it is not like us not to have resolved a problem two and a half years after the election. We normally are much better than that.

On the contracting out of the Company Registry, Mr Speaker, let me say that the Opposition Members have said they have had no difficulty with the policy. Who controls the Company is something, as far as we are concerned, that the Government has to be satisfied on. There were, as I have said, seven previous proposals which were rejected. None of the proposals came from Gibraltar interests. Some of the proposals involved companies outside. The first letter that I had from ATCOM in April 1988 included proposals for introducing something very similar to the international companies registry in order to bring people from Panama to Gibraltar. In that letter, the people who are now concerned about the reputation of Gibraltar in connection with Leichstein were saying that no doubt there would be people who would say that that would enable the Panamanian companies in Gibraltar to be used for drugs running and drugs smuggling and this and the other but they were always fuddy duddies like that in the system. We did not have the vision to see that we could bring hundreds of thousands of Panamanian companies to Gibraltar. That I have got on my files on record. I can assure the hon Member that in this, like in everything else, there is always an element of disappointment by people who have not been successful and they see somebody else being successful. We have taken the line purely on ensuring that we are able to adequately control the thing. Some of the concerns expressed by people have been taken on board by the company who changed the control by a trust to a company, who have met with the Financial and Development Secretary and are now talking about having the people directly as directors of the Gibraltar company and so on. From day one a condition was that the company had to satisfy the Financial and Development Secretary that they were fit and proper persons to be running that business; that they could not transfer control, ownership or management to anybody else without the prior consent of the Financial and Development Secretary as the Registrar of Companies, and that if they failed to do that they would lose their contract without compensation. That was always a condition that we have put down from day one. At the end of the day, the purpose of the exercise is that it is not

a question of £70,000, it is question of an investment of the order of half a million pounds which we have not got. We have had consistently, for the last four or five years, representations. All the people who came up with several proposals, were people who initially came up complaining. The Opposition Member may remember some years ago, I think before he was involved in politics, that at one stage his chambers made representations to the Government about the unsatisfactory service of the Shipping Registry. We said to them "Look, put us proposals to run the Shipping Registry and you can run it". That is what we do. If somebody comes and says we are not running it properly we say "Alright you suggest to us how you can do it better and if we think that your proposals make sense and that it is not going to cost us money and that it is going to create more job opportunities and an expansion of the business, we will redeploy the people that are doing that job to another job, retrain them for something else in the civil service and contract it out to you. But we have to satisfy ourselves that you are doing the job properly". At the end of the day, of course, we are the ones who are laying down the standards. If the international image of us is as awful as it is they cannot think that our contractor who is being monitored by us can be any better than we are. At the end of the day we do not think that the image of the contractor can possibly dent our image given that it is already rock bottom.

The Opposition Member also mentioned this question in the Principal Auditor's report of the PAYE that the Principal Auditor was referring to in 1991, was still the PAYE of the companies that were the break-up of GSL. They were the security company, the painting company, the pipework company, all of which were hyped-off from GSL because GSL was losing money hand over fist. We seem to forget that in 1988 GSL was losing £8 million a year and the options that we had was to close it down because it could not pay, or to try and turn it round. We tried to turn it round for three years. In 1991 we went to the workforce and we said "Look, we gave you a commitment in 1988. We tried to honour that commitment to the best of our ability. We have managed to reduce the losses from £8 million to £1.5 million. We have now done everything, you have done everything you can to help us" because they actually did "and we still are losing £1.5 million. We have to tell you that either we close now and pay you off or in 1992 we go to a general election and we say that if we get re-elected we are going to close the yard and we are telling you beforehand so that you do not say we cheated you by promising you to keep the yard open and then you voted for us and we closed it. No, we are telling you. You will get a chance not to vote for us and then we will close it. Alternatively we can agree to

give you £20,000 and you can go now". And that is how it happened. We were still left with arrears of PAYE from the wages of those workers which the company has entered into agreements with the Tax Office on the same basis as other companies in the private sector. It is not true to say that all the assets of GSL disappeared. Surely, it is known that Kvaerner entered into a contract for the purchase of those assets because a contract was negotiated with the firm of the hon Member, so how can the Hon Mr Vasquez ask "What happened to GSL?"? What happened to the GSL contract is we sold it to Kvaerner and he got paid a fee for negotiating the contract, that is what happened in GSL. We are not aware of any assets disappearing. Certainly all the accounts have been audited. I can tell the hon Member that we have had problem areas which we do not hide. We have had problem areas in some areas where at the end of the day we have had half a dozen people remaining in a company at the end and then when they have been told that they were going the following week certain things have disappeared. There is no way that that is preventable. I can assure the hon Member that that must be happening in some areas of PSA now. If the components factory was not empty it would happen, and if Both Worlds was not empty it would happen because if the guy that is on the point of being sacked, in some instances, feels a sense of grievance against the situation in which he finds himself and he takes it out either by taking something or by destroying it or by damaging it. That has happened to companies that we have closed down at the last minute but it has happened like it happens to everybody else and it is not because we politically are doing anything that is incorrect. I have explained this before when hon Members have brought them up. All these companies have been created and I have said to them before "We have been left with two or three operating companies employing 160 people". They can believe it or they cannot believe it but those are the facts and at the end of the day when we have to defend the record in 1996 then we will choose what we need to make public to demonstrate to people that we have been consistently protecting the interests of Gibraltar throughout this term of office like we were doing it in the first term of office.

The policy, Mr Speaker, on the sale of Government properties to which the Opposition Member keeps on referring as the payment of key money. I made an announcement in the House in answer to a question and said that the policy of the Government of Gibraltar was to make use of any property released by the MOD in a way which in the judgement of the Government would gain the biggest impact on Gibraltar's housing problem. We believe that if we have got people who are not paying key money because they are destitute and out in the streets,

people who are giving up a post-war new flat. It is not the same thing. When the hon Member says the reason why key money was outlawed was because there was a housing shortage and because somebody was saying "If you want a pre-war room and kitchen which is rent-controlled, you pay me £10,000 for the light switch and for the broken down furniture". That is the key money that was ousted by the Landlord and Tenant Ordinance. We all know that, anybody that dealt with workers and the housing problem as I have done in 14 years in the Union knew that this was happening and knew that this is what in fact the previous administration tried to stop and we have tried to stop. This is not the situation with an MOD property which comes to us, which is a pre-war property but which is a pre-war property that needs money spent on it but which is an attractive proposition to somebody that is living in a housing estate and who would like to have the benefit of having a semi-detached house with a little piece of land which is a luxury in Gibraltar. Therefore, what we say is "Well, if you want the luxury in Gibraltar then you offer to maintain the property, to pay rent and to pay a premium all of which goes back to improve the housing lot of those less fortunate than you". It is not that we are keeping the premium for ourselves. The premium goes back into the pool of money in the Improvement and Development Fund where the biggest element is housing. If people pay £2,000 premium and give us an empty flat in the Laguna Estate, we have now got £2,000 to go into expenditure on housing and we have now got a new house handed back to us to give to the next person on the waiting list. That is using the MOD property to the best possible use. We can be criticised for it but it is a policy we are prepared to defend because it is not based on self interests and certainly it is not handing out the policy at the whim of the Minister as their manifesto said. It is handing out the property on the basis of the maximum impact on the waiting list which is money to put into the Improvement and Development Fund for more housing and a good property, in good condition, back for the Housing Allocation Committee to give to the next person. That is the policy. Members may agree or may not agree. We have tried it out, we had something like 40 applications for four properties. However, we had done it. I can guarantee that if one of those persons had been the father-in-law of my great grandmother somebody would have said that it was a connection and that is why he got it. We all know that Gibraltar functions like that. What has been done was that it has been looked at and the combination of money and release of property put together was a judgement based on a recommendation of a team of people who looked at it and the attraction of the property that was being given up and at the state that the property was and whether it was a property that needed money spent on

it or a property that could be given to somebody straight away. We have got four good quality properties back. We have rehoused four families into property that will need quite a bit of money spent on them and we have produced some money that now goes into the Improvement and Development Fund. We will stand by that judgement and if people want to criticise it then that is too bad.

Mr Speaker, on the question of drugs rehabilitation, this is something that my hon Colleague is looking at in connection with Camp Emmanuel where we are giving some assistance and also in connection with Governor's Cottage Camp which is going to be made available for a pastoral centre. On the question of actually stopping drugs coming in, let me say that the policy of the Government is absolutely clear and our commitment in that direction is absolutely clear. Certainly, it is not up to the Commissioner of Police to make recommendations to anybody other than the Government and we will then, as a matter of policy, decide which recommendations we think should be implemented and which are not and that will be the policy of the Government which the Commissioner and the law enforcement agencies will carry out because we are the policy-makers and we stand by that. I have now got regular fortnightly meetings with the Commissioner where he is going to be producing for me detailed information which is not something that can be obviously spread about so that together we work on what is the best way of achieving the results. Let me say that one area where we feel very strongly and which I have asked the UK Government for a reply on is on the question of the sentencing. It is all very well to say that we are going to give more resources to the Police; we are going to put a special unit; we are going to catch people; we are going to take them to court and we are going to convict them. In some of the cases that the Police have brought to my notice there is one particular one which really shook me where somebody was convicted of possession of heroin and firearms and ammunition and fined £50. If the end results of all our efforts are going to be a £50 fine we are all wasting our time. The minimum sentence is opposed by the judiciary on the grounds that is interfering with their independence. I have been advised previously that there are constitutional problems with minimum fines. I have asked the UK Government to produce for me a legal constitutional opinion and if the opinion is that it can be done then I can tell the House it will be done and we will take the political responsibility for doing it. What I do not want is to do it and then have it challenged as being unconstitutional and lose it. I will not bring it until I am sure. I think the message that I want to send the House and indeed the people outside the House is that as far as we are concerned we want to clean Gibraltar of drugs. It is a cancer and it

is a cancer which we must all fight together and it is something on which, frankly, this is even more serious than unemployment. This is not something that should be party political. This is something which we must all be on the same side of. We must work together to achieve the same results, the only thing is that we must be convinced that what we are doing is designed to do that because in another area we may not agree. We may not be as committed to anti-smoking, shall we put it that way, as the Hon Mr Cumming. I give way.

HON P CUMMING:

It was a bit embarrassing to read about the course run for Police and Customs Officers and the instructor saying "Right, now we are going to do a little real life exercise, let us go and search the ship" and at that moment a great haul was found. I would have been very embarrassed if it happened to me. If I was on duty at the hospital and somebody specialised came from UK to give a course said "Let us go to the wards now" and then something was found that showed that we did not have the basic elements here.

HON CHIEF MINISTER:

I do not know the details of what happened there. I can tell the hon Member that certainly the whole idea of that course, to get the two together, is as the Hon Mr Corby has mentioned, Eddie Campbello has been fighting a long battle on this one for a very long time. It has been a disinterested battle for which he has had very little recognition from anybody and certainly we are committed to trying to translate his ideas into practice but there are problems of the order of command in the unit which I have not been able to resolve. These things are real problems when you are trying to govern. In theory things ought to work; in practice you are dealing with human beings and with their positions, their status etc. Therefore, it is something that can only work if everybody is committed to making it work. We certainly do not want to create situations which do not get us any further down the route that we want to go but the commitment of the Government is clear to the extent, in fact, that when we set up the special fund into which the money goes which is from the result of drug cases - which the UK has and other people have - we did not just put that the special fund would get the money from the confiscation of assets. In our case we actually put that the drugs fund would get the money from the fines because maybe that will encourage people to put higher fines. It does not seem to have worked but you never lose hope. Really what I am saying is the resources to some extent will be generated by the success of the operation that we

have done. We need to prime the fund but if the strategy is successful that success will in itself produce resources which we are committed to devote entirely back to the battle against drugs.

Mr Speaker, in the reference that was made by the Hon and Gallant Col Britto on the Moroccans, I have already said that we are in tune on the 1985..... I think the problem with equal opportunities to EC nationals is it is true to say that we are not required by Community law to give Community nationals preference over Moroccans. That is true but we cannot give Gibraltarians preference over Moroccans unless we also give it to Community nationals. Otherwise we would be discriminating between the Gibraltarian and the Community national by giving one preferential treatment over a third country national. That is the problem. If we removed the only control we have got which is a work permit for Moroccans then we would lose all controls over the labour market. The only way that we can operate it and the way we are trying to operate it is that in practice we are saying "You are registered as a worker in Gibraltar but if you are a frontier worker under Community law you register there. You come in every day and look in the Job Centre to see if there are any jobs up, but we are not required to register you as a commuting frontier unemployed worker. Under Community law you have to register, claim unemployment benefit in the country of residence, not in the country of employment". Therefore, we are not discriminating against anybody but we go down the list of the people that are on benefit because that is a normal thing for employment centres to do. If one is in the UK on the dole then one gets sent to the job first because the role of the Department of Labour and Social Security is to employ people to whom they are paying dole so that they stop paying. That, in practice, means that it tends to work like that but we cannot introduce a rule that says it without being in trouble with Community law. If we could we would because we believe that in principle the morality of the argument is undeniable. Why should 250 UK nationals, who have never worked in their lives in Gibraltar, step off a plane and have a greater right than somebody that arrived here in 1969? It seems wrong but the truth is that we can say to somebody who wants to employ a Moroccan that he needs a work permit and we cannot say it to somebody who wants to employ the guy that has just stepped off the plane. Opposition Members can be sure that if a way could be found to do it, it would be done and that maybe in the forum that we are creating the kind of informal contact will generate a consensus as to what the priorities should be and maybe that will give us a route which does not infringe any law because, as I say, as a Government we cannot stand here

and say we are going to do something which is illegal because that is just inviting trouble.

Mr Speaker, I think one other area the Opposition Member mentioned again was the question of consumer protection. We said we would be making an announcement at the time of the Estimates, we are now looking to having an office possibly in the City Hall and we are looking to giving terms of reference which would enable it to have a wider role in advising people than merely questions directly related to purchasing things. If we finally put something together on those lines the hon Member can claim that we have implemented something from his manifesto.

Mr Speaker, I think I have covered the points raised by the Opposition. I regret that we have had to demonstrate the level of animosity in some parts but I have to be clear that, frankly, we are not prepared to shy away or run away from issues and we will stand our ground and defend it and if we have to do it by distancing ourselves from the Opposition then, so be it. We would wish that our debates should be more at a level where we are both looking after the long term interests of Gibraltar and we may, in the short term, disagree about methods and about achievements but not about honesty, integrity or dedication. I commend the Bill to the House.

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

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

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Mr Speaker put the question which was resolved in the affirmative.

The House recessed at 8.55 pm.
The House resumed at 9.15 pm.

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee and to consider the following Bills clause by clause: The Appropriation (1993/94) Bill, 1993; the Financial Services (Amendment) Bill 1993 and the Magistrates' Court (Amendment) Bill 1993.

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

THE APPROPRIATION (1993/94) BILL, 1993

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

Schedule Part I Consolidated Fund

Head 1. Audit

Personal Emoluments

HON P CARUANA:

Under Personal Emoluments; as I am sure both Mr Chairman and the Government will appreciate simply as a token, to represent the observations that I have made earlier, I propose an increase in the vote under the Heading Salary of £100.

HON CHIEF MINISTER:

We will vote against the token £100 increase in salary because the salary.....

MR SPEAKER:

The Opposition cannot make that proposition. What they can do if they wish to debate any points is to reduce it by £1 and then they can discuss the matter.

HON P CARUANA:

As I cannot increase I will wait until we come to the 'Other Charges' and I will propose a reduction under the professional services item.

Personal Emoluments was agreed to.

Other Charges

HON P CARUANA:

Mr Chairman, simply as a means of placing on the record at this stage of the proceedings, the views of the Opposition in relation to comments of the Principal Auditor that he lacks the resources to conduct his audit as he thinks that he should, we propose a token reduction of £1 under subhead 8.

HON CHIEF MINISTER:

Let me say that I am quite happy to vary for less but since the point is really to record the view then we have taken note of the view but thank you, we will defeat the proposed amendment because it would mean that the work of reprinting all the Estimates and all the Consolidated Fund and all the balance is not worth it for recording the hon Member's point, otherwise we would.

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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

Head 1 Audit stood for part of the Bill.

Head 2, Education and Sport,

(1) Education

(1) Personal Emoluments was agreed to.

Other Charges

HON L FRANCIS:

We can see that it has always been historically a high charge but I was wondering how come there is such a high bill for telephone services within the schools. Is there any specific reason for this, has it been looked into?

HON J MOSS:

No, Mr Chairman, I am afraid I cannot offer any explanation other than to say that the outturn is related to the actual bills that have been received by the schools and by the Department of Education.

HON L FRANCIS:

Item 7, Refreshments in Schools, the forecast outturn for 1992/93 is £13,000, now in 1993/94 it has gone down to £3,700. Obviously they have cut out some sort of refreshments, could the Minister comment on that?

HON J MOSS:

Yes, Mr Chairman, the actual subhead has gone down because the St Martin's School refreshments will no longer be charged to this particular subhead.

HON L FRANCIS:

Item 9, Cleaning and Industrial Services, the approved estimates for 1992/93 was £771,000, the forecast outturn is £835,000 and it has gone up even further, the estimate for 1993/94 is £847,000. Is there any specific reason for the jump?

HON J MOSS:

No, Mr Chairman, it is related to the wage increases.

HON CHIEF MINISTER:

I think there was a decision taken to employ some full-time cleaners as opposed to part-time cleaners in the South Barrack School.

HON J MOSS:

And one extra cleaner at Bayside School as well for a new laboratory that was commissioned in respect of the national curriculum for work on plastics.

HON L FRANCIS:

Item 10, Examination Expenses, again there has been a steady rise for that: £89,000 and now it is £105,000, is that an increase in outside expenses?

HON J MOSS:

No, it is mainly due to more students sitting examinations, particularly more expensive examinations such as the Btec courses in the College of Further Education.

HON L FRANCIS:

Item 15, obviously a decrease in the number of children outside government schools. Is that specifically to do with MOD withdrawal etc?

HON J MOSS:

It is only partly due to that. In fact, the major reason for it is again transferring of children who are in education in schools in the UK, receiving special education because of particular behavioural problems. That has been transferred as well from this subhead.

HON L FRANCIS:

Item 18, Intensive Language Courses; approved estimates in 1992/93 was £27,000, the outturn for the same year is £16,500, now in the estimate is again up to £20,000 and having noticed that on the revenue side the same intensive courses have been showing a profit of about £1,000 in this year, projected to show a profit of £10,000, is there some reason for this?

HON J MOSS:

(Inaudible)

HON P CARUANA:

Mr Chairman, if you would allow me to go backwards just for a point of further clarification. On both occasions that the Minister has said the reason for the decrease, I think it was refreshments and outside government schools, Items 15 and 7, do we assume that the vote has been

transferred out of those subheads into the item? I do not immediately recall where it is but it is about £500,000 under the heading 'Expenditure on Handicapped'.

HON J MOSS:

That is right, Mr Chairman, it has been transferred to Head 17, Subhead 7, Handicapped Support Services.

HON P CARUANA:

Can the Minister say whether that figure in that Head represents an increase or simply the accumulative value of all the items that have been stripped out from elsewhere in the Estimates?

HON J MOSS:

I believe it is cumulative value, Mr Chairman.

HON CHIEF MINISTER:

What we try to do is to produce a figure which shows the total amount of money that was being spent in support of the handicapped in different areas. Two reasons really; one is that it is better to have a global figure because then when we know about how much money we are talking and frankly because the money in that Head can only be used for that purpose, whereas in any other Head if we have got unspent money in one subhead we can vire it to a different subhead, so therefore, what we are saying is that providing £511,000 in support of the handicapped, which includes those that are studying in special schools in UK. If there is a saving in one element then the money is available still for the handicapped, otherwise it would have gone back to the Education Head, or the Head whatever.

HON P CARUANA:

We can mention it now or later when we come to that Head, the cost of running St Bernadette's Occupational Therapy Centre when those are incurred and where do they appear in this?

HON CHIEF MINISTER:

When we know what additional costs are involved the additional funding will be provided from the block vote that we have got this year under Supplementary Funding, which the hon Member will see has been increased.

Head 2(1) Education was agreed to.

(2) Sport

1. Personal Emoluments was agreed to.

Other Charges

HON E BRITTO:

Can I query Head 2(2) subhead 8? Does the figure for £45,000 include the grant to the contingent going to the Island Games or is that appearing separately?

HON CHIEF MINISTER:

There is, as far as I am aware, no separate funding in any other part of the Estimates. So I do not know to what extent money within that has already been identified for that purpose but I can tell the hon Member that we have not made provision anywhere else because that is something I would know from looking at the Estimates over with the Treasury.

HON E BRITTO:

The implication of that answer, Mr Chairman, is that since the Island Games do not occur every year there will be a reduction to grants to other sporting societies during the current year.

HON CHIEF MINISTER:

I suppose it depends on when the need for the money will arise but I can say that we have not made provision elsewhere so if they were to need money tomorrow.....

HON E BRITTO:

Mr Chairman, the Island Games are in a couple of weeks' time. I do not mean the Island Games to be held in Gibraltar, the Games in the Isle of Wight will be opened next month. The question is whether the £45,000 includes the grant to the Island Games in the Isle of Wight next month.

HON M MONTEGRIFFO:

Yes, Mr Chairman, I can also confirm to the Minister that the amount that was granted is £16,000.

HON E BRITTO:

Mr Chairman, by implication as I was saying before it means that last year £45,000 were distributed amongst

other sports, so the grant this year to other sports will be £16,000 less?

HON M MONTEGRIFFO:

Yes, by definition but I can tell the hon Member that the applications that have been received this year have all been met.

HON BRITTO:

Is it not correct, Mr Chairman, that the last Island Games that were held there was separate funding outside the 45,000?

HON M MONTEGRIFFO:

No, Mr Chairman, that is not correct.

Head 2, Education and Sport was agreed to.

Head 3, Electricity Undertaking

1. Personal Emoluments was agreed to.

Other Charges

HON E BRITTO:

Mr Chairman, subhead 9, Public Illuminations, there is an obvious big difference from the forecast outturn to the estimate, could we have an explanation?

HON CHIEF MINISTER:

Every year we discover something new about Government accounts. This year we have discovered that included in 'Public Illuminations' was the charge for street lighting which the Department pays itself and it appears as an expenditure on street lighting and then as revenue in the income for sale of electricity. We obviously thought that just in order to save the paperwork it was worth removing it from both sides of the equation. What we are left now is with the money spent on the Christmas illuminations.

HON E BRITTO:

That begs the question, where does the expense of the north face illumination and public buildings appear?

HON CHIEF MINISTER:

I think if there is not a charge to any department for that, the consumption was probably charged to public lighting. I am not a 100 per cent sure, if we find the information is incorrect we shall let the hon Member know, but when we checked with the Department what public lighting meant, effectively the answer we got was that public lighting was lighting that was not paid by anybody else.

Head 3, Electricity Undertaking was agreed to.

Head 4, Environment,

1. Personal Emoluments was agreed to.

Other Charges

HON L FRANCIS:

Mr Chairman, item 3, Cleaning and Industrial Services, the estimate for 1994 was £143,000. Having looked back at where it was provided last year, the sum was £205,000 I presume that before this might be to some kind of privatisation of some services etc.

HON J E PILCHER:

It relates to the contractarisation of the Dog and Cat Impoundings Unit and also the market which the Hon and Gallant Col Britto was referring to before.

HON L FRANCIS:

Item 4, Purchase of Vaccines, again here we have an estimate for 1993/94 of £2,500 whereas last year it was £11,800, again I presume it has been moved into another department?

HON J E PILCHER:

It is related again. The £2,500 is really the residue of everything that has been passed to the dog and cat impounding contractor which, just for information, is linked up with the RSPCA. We have done a deal with the RSPCA, the Gibraltar Kennel Club under the vet, Mr Pizarro. The contractarisation is going to the three entities which have formed one organisation and they now take care not only of the veterinary support but also of dog and cat impounding at the same time.

HON L FRANCIS:

Item 15, Public Places and Planted Areas, in 1994 the estimate is £773,400 and again if we look back to last year it was £823,400. I know part of this maybe because of the Green Arc privatisation etc, but it does not seem to be enough to be all of that.

HON J PILCHER:

The major part of that, Mr Chairman, is related to the fact that part of the contract of public places and planted areas, which is a contract that is paid to the Gibraltar Tourism Agency Ltd, contains an element of Government secondees to the Agency. When those secondees had been transferred back, their wages had been transferred back to the Government. So the £50,000 is in fact all related to wages that have been removed from here and back. There is not all that many left but the other two or three that are left, we will see that being contractual obligation and not an element of seconded wages.

HON L FRANCIS:

Item 9, Collection of Refuse; the forecast outturn for last year was £1,022,400 and the estimate reduces it to £951,000. Are we having more efficient or cheaper collection?

HON J PILCHER:

Yes, I think that we do have more efficient refuse collection. But that has nothing to do with the explanation on this. The explanation, Mr Chairman, is related to the changes which the Government have done this year in which, as the Chief Minister explained, the garage is now funding integrally the repairs and maintenance of government vehicles, these are government vehicles and whereas last year they charged this head, the maintenance and repairs of those vehicles, this year they have to do it as part of their function. Basically, all the money there is related to the removal of the repairs and maintenance of the vehicles.

Head 4, The Environment, was agreed to.

Head 5, Fire Service, was agreed to.

Head 6, Governor's Office, was agreed to.

Head 7, House of Assembly

1. Personal Emoluments was agreed to.

Other Charges

HON P CUMMING:

Mr Chairman, sitting on the Opposition benches is dangerous and I have already congratulated the Attorney-General for not sitting on the Government benches and I mean in the physical sense. If we were all sitting in Mount Alvernia thirty years from now, and a nursing inspector came, the nurses would be charged with malpractice because this frame sticks up under the bottom of the leg especially when speeches are long and boring and the blood pressure goes down it is very likely to form a blood clot. This can then travel and cause sudden death by pulmonary infarct. This is something the nurses are taught and taught and it is dangerous to obstruct and I honestly think these are dangerous apart from very uncomfortable. I would recommend to the House that some expenditure be put down to relieve this.

MR CHAIRMAN:

The hon Member has missed the point, that is why they are so, so that speeches are not long and long and long. This is really a point that you have made. If you would like to refer it in writing we will pass it on to the Government and if they are generous enough and want to look after the Opposition I am sure they will agree.

HON J PILCHER:

And Mr Chairman, being 9.40 pm. the duty chemist is now closed.

HON P CARUANA:

I am sure every Member of the House welcomes and enjoys the support that we get from the staff of the House. We on the Opposition consider that it is really an impediment to the work of the Opposition as I am sure they found it in their time, the length of time it takes to produce Hansard. For example, we did not have the Hansard of the supplementaries of the last Question Time at the time that we were preparing for this session. I understand that a simple upgrading of the secretarial equipment available would be an improvement to the speed with which Hansard can be produced and it involves changing the typewriter for a decent word processor with a printer. I understand that the Government will receive or may already have received suggestions to this effect. I understand that the support there is outside is in effect a memory typewriter linked to a matrix printer and that as the printer is functioning the typist cannot

actually continue to input so that not only is it a slow printer compared to a laser printer but whilst the printer is printing slowly the secretary can only sit there watching this slow printer print because the machine will not allow her to carry on inputting whilst the printer is printing. We would actually welcome more staff, at least seconded in from any other area of the Government controlled staff, immediately after sessions of the House to really give the production of Hansard a push. But if that were impossible in the present climate then at least an upgrade of the word processor to one which is a genuine word processor, plus linked up to a laser printer and not a very slow matrix printer would, I understand, considerably improve the speed of production of Hansard. Therefore under 'General and Other Office Expenses' which is £8,600, I do not know how tight that figure is, but if the Government would consider making available from other resources alternative computer equipment to enable that to happen.

HON CHIEF MINISTER:

I have taken note of what the hon Member has said and I shall investigate the possibility.

I shall draw the attention of the Opposition to the fact that we have put in a token vote of a £1,000 for the 'Register of Electors' which is something that we raised last year. [Interruption] It is token because we do not know how much will be required but we need to have a head to which we can viro additional sums if required. I think I mentioned before that we wanted to wait until the movement of people to Westside had taken place. We hope we will be able to do it in the current year.

Head 7, House of Assembly, was agreed to.

Head 8, Housing

1. Personal Emoluments was agreed to.

Other Charges

HON M RAMAGGE:

Mr Chairman, under heading 12 Training Expenses we have got an ex-gratia payment of £28,000 forecast outturn. We feel that this is high compared to other years. Can somebody explain?

HON J BALDACHINO:

They are claims that we have received from tenants which are because of floodings or burst pipes and things like

that, which have been settled and therefore has now been taken out.

Head 8, Housing, was agreed to.

Head 9, Justice and Law Department, (1) Supreme Court

1. Personal Emoluments was agreed to.

Other Charges

HON F VASQUEZ:

Mr Chairman, we are wondering why the Official Receiver expenses have gone up from £5,000 to £25,000, any reason for that?

HON CHIEF MINISTER:

We had a rather unsatisfactory situation in that it seems that whenever other people do not want to pay, we have to pay. We are told that there is no way of getting out of this. Obviously, if we could, we would and have tried to think about several ways of getting out of it but I am told that as the law stands at present, it is not easy to see how we can change it. If we have a company being wound up, the liquidator appointed to carry out the winding-up is not prepared to do the work unless somebody guarantees that he will get paid if there are insufficient assets. We have been faced with a number of situations where the liquidators have simply gone back to the Court and said "We do not want to carry on with the winding-up". It then falls on the Official Receiver, who is the Clerk of the Court, which then becomes responsible for the winding-up. He feels he does not have the necessary accounting expertise to do it and is forced then to go to an accountant and hire him. We are now looking at providing a permanent back-up for the Official Receiver for those cases where there are insufficient funds in the liquidation to permit anybody being willing to take on the liquidation. It is a difficult situation because there is still this business, for example, of this Allied Irish Investors or whatever. There was a bank in 1982 still going round and obviously there are people trying to get us to pay for a liquidation of something where everybody believes that there is no money to be found anyway. The figure that we have put there is based on what we finished up paying for the current year.

HON F VASQUEZ:

The last entry is an ex-gratia payment, I wonder why the Supreme Court is making an ex-gratia payment of £16,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I do not actually know the answer but normally when there is an ex-gratia payment in respect of a settlement out of court it falls to the department concerned.

HON P CARUANA:

It was paid to me. I think it was a loss that was suffered by the Admiralty Marshal as a result of converting a very large sum of dollars, the proceeds of a sale of a ship, into sterling without the authority of the Court and there was a resulting exchange rate loss which the Government kindly agreed to compensate my client. It was exactly £16,000.

(1) Supreme Court was agreed to.

(2) Magistrates' and Coroner's Court, was agreed to.

(3) Law Officers

1. Personal Emoluments

HON F VASQUEZ:

The £55,000 entered under (b) Temporary Assistance, can the Minister explain what that is?

HON CHIEF MINISTER:

Some Opposition Members may want to know with some trepidation that we have got 32 lawyers returning this year from the United Kingdom. Obviously the labour market is going to be getting very tight and in order to help lessen the competition we have decided to offer some of those returning students the possibility of working in a number of Government departments. We are thinking of putting some with the Attorney General, some in the Land Property Services, one with maybe the Police and one with the Law Draftsman. So we are talking about possibly offering four jobs which would be a short-term contract and we think that if there are 32 returning this year, some of them may be interesting in working for a couple of years for the Government before they go into the market and there will not be so much competition at the same time. Technically these 32 students have been financed by grants by scholarships and we could say under the conditions of the scholarships we can require them to come and work. Let me say that we are not going to do that, all we are going to do is offer the opportunity to the 32 and see if any are interested in taking it up.

1. Personal Emoluments was agreed to.

2. Other Charges

HON F VASQUEZ:

Item 5, Legal Action, £56,000 are those continuing expenses related to Newall Court case?

HON CHIEF MINISTER:

This is something, frankly, we have not looked at this year because the hon Member will see that we have provided £56,000 last year, the outturn was £56,000. We were asked for the same amount of money, we did not query it but I can tell him that it is nothing to do with the court cases we are pursuing because that is shown under Special Expenditure. The external legal advice which is shown under Special Expenditure is where we have actually contracted somebody for the European Court case or we were taking, for example, specialist legal advice as I mentioned from the QC specialising in Community law in relation to the other. The legal action expenses is where we actually contract in Gibraltar a local lawyer.

Head 9, Justice and Law Department, was agreed to.

Head 10, Personnel,

1. Personal Emoluments was agreed to.

Other Charges

HON P CARUANA:

Subhead 4, 'Rent of Flats and Offices', will the Minister say how much of that, if any, relates to the rent being paid at Europort?

HON CHIEF MINISTER:

The same as in the last year, there has been no increase.

HON P CARUANA:

Can we know how much it was last year?

HON CHIEF MINISTER:

You will know as much as you knew last year.

Head 10, Personnel, was agreed to.

Head 11, Police,

1. Personal Emoluments was agreed to.

Other Charges

HON H CORBY:

Mr Chairman, on 9, Training Expenses, right through the Estimates the training expenses have gone down on more than one occasion, could the Minister explain?

HON CHIEF MINISTER:

The training expenses is based more than anything else on the number of people that are expected to be requiring training during the year which in the case of the police involves people being sent to the UK to specialise in certain areas like fingerprinting etc, or when we have got new recruits. It is not a fixed amount although the order depends on the numbers of people we have to send, for example, if we sent some people to do some courses last year we do not need to send them again this year because we have already got some trained people. It tends to be affected by retirements from the Service in certain specialities. If we lose an officer with a speciality in one particular area or if we project that somebody is coming up for retirement then we tend to send somebody on the course and the department puts us on advance notice, that the retirement is coming up and then somebody is trained so they are ready to take over when the person goes.

HON H CORBY:

Subhead 11, forecast outturn is £65,000 and the Estimates at £40,000 on investigation expenses.

HON CHIEF MINISTER:

These are payments made mainly to UK laboratories and mainly in relation to drug cases where the substances have to be produced in court as evidence and certified as having been analysed and we do not have the facilities here. We put the sum at the beginning of the year which we put at the beginning of last year but it is not that if the money runs out, we then stop sending samples for analysis. We just vote more money but frankly as a matter of normal financial control, we tend to repeat the same Estimate as last year but there is no way of knowing how much we are going to finish up spending.

HON F VASQUEZ:

Mr Chairman, I see there is no provision in the Estimates for the moving of the Police Station, is still the

intention for Government to move the Police Station from Irish Town to the Sergeants' Mess.

HON CHIEF MINISTER:

Yes, the position at the moment is that there has been some limited work done on the building, in relation to their club premises and to their vehicles. We have got in the Improvement and Development Fund under the 'Refurbishment of Government Buildings' provision for spending money on that as well. Frankly, we have, as a matter of Government policy, the situation where of the remaining activities from the old GSL workforce we have got in the Government owned company that does all the refurbishments of Government buildings, a workforce of 70 and although we could put work out to other companies, that would mean that once the money was spent for giving the work to the other company, we would have a problem of generating enough work for the company that we own and the 70 employees who are doing 90 per cent work for the Government and then 10 per cent, mainly bits and pieces in the shipyard. The programme of work of that company is what will determine when work is started on there. We have had to put the company in to do quite a lot of work in the Handicapped School which was not predicted because the company that was doing the school pulled out of the site. We found that there was still work that needed done on connection of sewage, water supply and electricity. We have just had a very long list of defects internally and that has meant that manpower has had to be shifted because we gave a commitment to the Society for the Handicapped that we would have the place ready for them to move at the end of the summer holidays, so that they could be in the new building by the beginning of the new term and therefore the refurbishment on the Sergeants' Mess has been put back in the year but it is still intended to be started this year.

HON P CARUANA:

Joinery and Building Services, is that company entirely eventually wholly-Government owned, are there any outside shareholders?

HON CHIEF MINISTER:

It is 100 per cent Government-owned. It has 70 workers and it is one of the few companies that, given the choice in 1991, chose not to take voluntary redundancy. There were a number of companies which we thought could be sustained in 1991 and therefore we said to the people in GSL "We are closing the Yard and people can take redundancy". There were many people that had been transferred from GSL to other companies and some of those

came back and said "I want the redundancy". We said "Those who want the redundancy can transfer back to GSL and it closes and they go. Those who do not want the redundancy can transfer to the companies that will remain alive". I mentioned earlier that the total workforce of all the companies left is of the order of about 160 and 70 of those 160 are in the Joinery and Building Services company and 90 per cent of the turnover of that company is the refurbishment of Government buildings.

Head 11, Police, was agreed to.

Head 12, Post Office Savings Bank and Philatelic Bureau

(1) Post Office and Savings Bank,

1. Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure

HON P CARUANA:

Definitive issue of stamps £66,000, had there been no definitive issue of stamps in the previous years or is this being.....

HON J C PEREZ:

Normally every five years roughly, we delayed it further because there was still a very large stock of the old definitive and we actually did some overprinting. It is due now and a revision has been made of the numbers printed in the past to print a more realistic figure so that we keep in with the five year period and not have a lot of stamps over which has happened in the last time. We have not in fact been taking the decision. The last definitive was taken by the previous administration.

Special Expenditure was agreed to.

(2) Philatelic Bureau,

1. Personal Emoluments was agreed to.

Other Charges

HON M RAMAGGE:

Mr Chairman, under subhead 6 we find that the actual expenditure for 1991 was £86,491, whilst the Estimate for 1993/94 is only going to be £65,000. Does that mean that less stamps are going to be printed?

HON J C PEREZ:

I do not know what the hon Member's estimate says, but mine says £69,000 not £96,000.

HON M RAMAGGE:

I mean the estimates of the forecast outturn.

HON J C PEREZ:

It is the same explanation. It is a revision of the printing of stamps where we are printing less because we have found that in many instances where there are no specific orders like the Worldwide Fund that bought 100,000 of the issue that we did, there are a lot of stamps over and we are trying to reduce the number that we print to a more realistic figure.

Head 12, Post Office, Savings Bank and Philatelic Bureau was agreed to.

Head 13, Prison,

1. Personal Emoluments

HON P CARUANA:

We have heard throughout the course of this session how the Government has made a policy decision to cut overtime and, of course, I can see how where work overtime is generated by the doing of jobs that can wait until the following day, how is it possible to cut overtime? Rather than have people in the Sewer Section fix the sewers at night or on a Sunday afternoon or Sunday morning, well we wait until Monday morning to clear the sewers and we can cut overtime in that way. But in the case of the Prison service either last year there were Prison guards doing overtime unnecessarily in the sense that there were people on duty unnecessarily on overtime rates, or the result of cutting the overtime must be a reduction in the cover of the Prison guards or the number of shifts or there is a third.

HON J C PEREZ:

The practice of giving overtime to Prison Officers has been gradually diminishing as a result of the pay agreement in the United Kingdom commonly known as 'Fresh Start' where instead of giving overtime to the Prison Officer's staff because it was thought that the job needed the officers actually to take leave, they were given time in lieu instead of overtime. For that to

happen there had to be a gradual increase in the complement which has happened over the last four years and the last stage of it was last year. Therefore, there has been some element of overtime until the whole of the Fresh Start agreement has been implemented and also because of the peculiarity of our own system where cover might not be possible at the level of the supervisors and the Prison Superintendent himself because everybody wants to take leave in the summer months. On occasions, although the Fresh Start does not allow it in Gibraltar we have allowed an element of overtime to cover for that annual leave as well for acting and for some overtime to cover for the shifts of those supervisors who have been out. The whole gist of the Fresh Start increased the salary of Prison Officers to a more realistic level and did away with the overtime element because it was thought that the Prison Officer, because of the nature of the work, needed that time off rather than working hours. The system, because there are more people in employment, allows for people to do overtime when it is needed but to take time off in lieu within a time span and that is why the overtime goes down.

1. Personal Emoluments was agreed to.

Other Charges

HON P CARUANA:

This business of 'Minor Works and Repairs' has in fact been taken out of the Consolidated Fund and transferred to the Improvement and Development Fund. It has nothing to do with the Prison service but perhaps I can have an answer. Do the Government agree that the result of that transfer of all these subheads from the Consolidated Fund to the Improvement and Development Fund, means in effect that we no longer have that breakdown of information available.

HON J C PEREZ:

He never had it.

HON P CARUANA:

We did, if we look under his Head now at Minor Works and Repairs, we know that the forecast outturn for 1992/93 is £27,900, this time next year I will not have that little bit of information.

HON J C PEREZ:

But the breakdown of how it has been spent rather than the allocation.

HON P CARUANA:

We know that he is hoping to spend £800,000 this year.

HON J C PEREZ:

I understand what the hon Member is saying, what he wants is the breakdown after the event rather than the allocation.

HON P CARUANA:

It seems an unnecessary reduction of the information that we get and I would settle for some sort of agreement that when he is reporting on next year, for example, Estimates on subhead 4, that they are listed there. I do not object to this being done under the Improvement and Development Fund rather than the Consolidated Fund.

HON CHIEF MINISTER:

I imagine it can be produced at the end of the year. At the moment what hon Members get in fact is the virements from the Head which was previously re-allocations to each particular Head of Expenditure. That will not be necessary with the money coming out of the Improvement and Development Fund but I am sure the Treasury can produce a similar piece of paper. It will not be tabled because it is not provided for in the system but it can be circulated.

Head 13, Prison, was agreed to.

Head 14, Secretariat

1. Personal Emoluments was agreed to.

Other Charges

HON E BRITTO:

Mr Chairman, Item 10, Official Visits Abroad, there is a considerable difference, practically double, of the forecast outturn for last year as opposed to the Approved Estimates, is there any particular reason for it?

HON CHIEF MINISTER:

The reason is that the bulk of that money in fact is visits by officials. It involves quite a lot of travelling on the part of Peter Brooke and the Law Draftsman. I am pretty sure that that particular Head is predominantly travel arrangements made for officials and

it just happens that they had to make more last year than we had intended and we have found that they have overrun the Head.

HON F VASQUEZ:

Item 14, Tourist and Other Promotions, is it possible for Government to break down exactly what is spent on Tourist Promotions and Other Promotions or has that decision not being taken?

HON CHIEF MINISTER:

The provision on tourism promotion last year was that we had allocated £250,000 for tourism and £150,000 for other promotions. We have increased the total by £50,000 but we have not decided to which of the two it will go or whether it will go entirely to one or the other and we are reserving that decision for later on in the financial year depending how the expenditure of the two items goes. Really, what I can tell the hon Member is that there is provision for £250,000 for tourism, £150,000 for other items and £50,000 unallocated.

HON F VASQUEZ:

Last year of the £150,000 that went to Other Promotions, was that Government subvention towards the GIBDB?

HON CHIEF MINISTER:

That is correct, yes.

Head 14, Secretariat, was agreed to.

Head 15, Support Services,

1. Personal Emoluments was agreed to.

Other Charges

HON E BRITTO:

Mr Chairman, Item 15, Disposal of Refuse, as opposed to the collection of refuse has gone up instead of down, is the explanation the reverse?

HON J C PEREZ:

No, it is quite clear, we have a contractual obligation with the incinerator and instead of running our own incinerator we now pay the contractor to burn. There is an increase in the charge every year regardless of the amount of refuse that we take and there is also an amount

of money there which we need to use to dispose of the fly ash and there are arrangements to put the fly ash into concrete and so on.

HON E BRITTO:

Mr Chairman, on the same item the Minister has referred to contractual obligations. My understanding is that the refuse destructor is up for sale or it is trying to be sold, is there any possibility that the refuse contractor could decide to opt out of the contract. Is there any possibility, remote as it may seem, of the destructor being dismantled.

HON J C PEREZ:

Mr Chairman, it would cost them much more to dismantle the incinerator and take it away than to run off and leave it behind. If the hon Member, in rumours that he hears, has heard something, please let us know so that we can get ready. There are no indications. There are a lot of complications. There is a dispute between the operator that built the plant and is operating it and the owner of the plant and there are technical problems affecting the output of water and electricity which is affecting the whole financing of the project itself. Because generally Baltica are pricing down their assets in Gibraltar and trying to pull out, in any case they have indicated that if a buyer were to come up for the right price they would be selling it. At the moment I have got some people interested in it who are having a look at it but they are having a look at it by doing a technical audit first and a technical audit does not augur well. I am certainly intervening myself directly on this to ensure that the contractual obligations to the Government are met by any new operator and because that is a condition of the contract. If they want the incinerator to change hands they have got to get our approval first.

Head 15, Support Services, was agreed to.

Head 16, Trade and Industry,

(1) Development,

1. Personal Emoluments was agreed to.

Other Charges

HON F VASQUEZ:

Item 3, Professional Services, there is no Approved Estimates; £8,000 spent this last year and £5,000 estimated for the coming year, what are these services?

HON M FEETHAM:

That charge is in relation to the economist that I brought over to look at the question of GSP, Mr Peter Welsh. This is part of his fees and also a report which has been done in relation to an analysis which is being done in relation to the type of products that would be advantageous for us to attract to Gibraltar so that they would have access into the Community using the GSP Preferences.

HON F VASQUEZ:

I thought that was provided by the British Commonwealth Institute.

HON M FEETHAM:

The original one but we have been adding on as a result of that basic report. We have been trying to seek more information and trying to establish.....

(1) Development was agreed to

(2) Infrastructure and Planning, was agreed to.

(3) Port,

1. Personal Emoluments was agreed to.

Other Charges

HON F VASQUEZ:

Mr Chairman, Item 2, why are we seeing a 100 per cent increase in the General Office Expenses for the Port Department?

HON M FEETHAM:

That increase is in relation to the apportionment of cleaning and rates increases as a result of the move of the Shipping Registry to Europort.

HON P CARUANA:

Mr Chairman, I think the cost of operating a Shipping Registry at the moment is quite small because it only

involves one member of staff, but are these Estimates prepared on the basis, in other words, do they assume the privatisation of the Shipping Registry or not?

HON M FEETHAM:

Not this particular figure.

HON P CARUANA:

Really, what I am asking is when the Government think privatisation is going to take place if at all?

HON CHIEF MINISTER:

The position is that unless we reach an agreement with the United Kingdom before December this year we are going to lose the Category 1 temporary status that we have got altogether, in which case there will not be a Registry either private or public after 1 January 1994.

HON P CARUANA:

But the question of the existence of the registry is different to the question of the product. Presumably the difficulties with the United Kingdom arise from the particular nature of legislation that the Government have put up in terms of the Ordinance or not?

HON CHIEF MINISTER:

There has been since last year continuing backwards and forwards on the legislation and at the end of the day on the requirements that we had in order to supervise the contractor. I can tell the hon Member that the last time I went to London things seem to have improved recently a little bit but they wanted the supervisor of the contractor to carry the responsibility for everything the contractor did which would have then meant that we would have had to duplicate all the services and we might as well have kept it in the public sector in the first place. I think since there has been some movement in the UK itself in setting up an agency and possibly following it up, the hostility seems to have lessened somewhat recently but the point that I am making is that by January next year, unless there is a change in the position of the UK, either we will not have a registry or it will be private and therefore we are making provision for twelve months but in fact it means that after December if we have to kick out of our registry everything over 150 tons we will certainly not be spending money on keeping a registry, we might as well shut shop.

Head 16, Trade and Industry, was agreed to.

17. Finance and Revenue-collecting Services,

(1) Financial and Development Secretary's Office,

1. Personal Emoluments

HON P CARUANA:

I am just trying to see what functions the Financial and Development Secretary's Office had inherited in the recent changes that result in such an increase in his salaries bills, but I am sure that information is available here.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, I am glad to be able to make a contribution to the proceedings. You have no idea how much the House is spared when I forwent my right of reply. This is in fact the Companies Registry's staff who have been transferred to the Office of the Financial and Development Secretary and therefore their salaries and remuneration are included in Section (1), Financial and Development Secretary's Office salaries etc and also there is a figure in Other Charges later on.

HON P CARUANA:

Yes, I suppose the reason why I might not have seen it immediately is that in fact that information is not reflected in the establishment of the Financial and Development Secretary's Department, is it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes it is, they are in fact included in the establishment as supernumerary staff at pages 70/71. There is only a difference of two from one year to the next, that does not justify the increase.

HON P CARUANA:

But there is not enough difference from 1991, it is the same as last year, so there cannot be. That would not justify a difference of £100,000 odd, I think it may have been excluded from the establishment. The Government have doubled the salary bill but not the establishment.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is an increase of two actually shown under the permanent complement and they are the Exempt Companies

staff who are going to stay with the Financial and Development Secretary because they are not forming part of the Companies Registry which is the subject of course of the privatisation proposals. They are the Companies Registry which are included under supernumerary.

HON P CARUANA:

I fear that the Financial and Development Secretary is not understanding my question. For that explanation to be correct he would have to be paying those two members about £75,000 each.

HON CHIEF MINISTER:

The complement shown which shows the staff as supernumerary this year would not have shown them as supernumerary last year. It would have shown them probably last year under the Department of Trade and Industry. In the figure that we have got on page 70 what we have done is we have moved two officers from the staff of the Registry to the Office of the Financial and Development Secretary. These are the two officers responsible for carrying out the functions of exempt company registration which will remain with the Financial and Development Secretary and which is not going to be handled by a private company. This is one of the reasons, for example, that we have picked this one instead of the others. The rest of the staff last year was not shown as supernumerary because they were not supernumerary, they were shown on the complement probably either of the Courts, or of the DTI under the Companies Registry.

HON P CARUANA:

If we look at page 70 we see that the total staff of the Financial and Development Secretary's Office is 29 in 1993/94 and 29 in 1992/93. There is, therefore, no net increase in staff yet at the same time there is a doubling of the wage bill.

HON CHIEF MINISTER:

The answer, Mr Chairman, is that the amount shown in Personal Emoluments in the outturn for 1992/93 reflected the complement in last year's Approved Estimates.

HON P CARUANA:

Which is the same establishment.

HON CHIEF MINISTER:

No, the fact that these people are shown as having been in existence last year does not mean that they were here last year, they were somewhere else last year.

HON P CARUANA:

Are they not given the same treatment as with figures.....

HON CHIEF MINISTER:

No, not when we are talking about Personal Emoluments and staff on the personal emoluments, because if we look at the areas that have disappeared at the back, in Trade and Industry.

HON P CARUANA:

At page 24, John Mackintosh Hall.....

HON CHIEF MINISTER:

In last year's Approved Estimates for Expenditure, page 74, there is a complement of 15 shown under Companies Registry and there are some officers shown as supernumerary so they have disappeared from being shown separately as Companies Registry and they are being shown for comparison next to the supernumerary because that is where the supernumerary have come from. What we have got is a situation that we have got 29 officers now supernumerary. That is an increase in the number of officers shown supernumerary last year and last year we had 15 officers in page 74, of last year's Estimates shown as the Companies Registry which did not appear in the particular section of Personal Emoluments. They do this year but which were shown in another part of the Finance and Revenue collection Head. They were shown as (4) Company Registry. (4) Companies Registry independent of the rest is now gone.

HON P CARUANA:

Turning to page 70, which are the Companies Department staff that were shown last year under the heading Companies Registry (4) where are they.....

HON CHIEF MINISTER:

Of the 15 that were shown in the complement of page 74 of last year's Estimates, we have got two that have moved into the permanent establishment of the Office of the Financial and Development Secretary which is the increase

of 14 to 16 who are going to be recording the exempt companies and the remaining thirteen were added to other supernumerary staff and are being carried there because the Companies Registry was still going to be operating publicly after 1st April and therefore we had to pay them April, May, June, until the contractor takes over.

HON P CARUANA:

What has misled us then is that where it say 1992/93.....

HON CHIEF MINISTER:

What it shows is that the 29 people that are shown as supernumerary this year were already being paid as Personal Emoluments but they were shown in other sections from the one that they are shown this year.

1. Personal Emoluments was agreed to.

Other Charges

HON P CARUANA:

Purely as a matter of interest, the Companies Registry expenses £17,300. Given that we are not providing a Companies Registry what expenses are those?

HON CHIEF MINISTER:

What we have done in this year's Estimates is provided the same funds in Personal Emoluments and in Other Charges as we have provided previously because we did not know when in the financial year the changeover would take place and therefore we had to be prudent about providing for the whole year. This is why, for example, we have provided for Revenue in receipts of company registration fees for the whole year. What we expect at the end of the year is that the final outturn of receipts and expenditure will be down because what we are getting is as a result of our agreement, the same net amount. £700,000. It meant that if we have been spending £350,000 on the expenditure side and collecting £700,000 in fees then if we were six months down the year we would finish up with spending £178,000 in the expenditure side and £350,000 in the income side for six months and then the net figure for the second six months because the expense would disappear.

HON P CARUANA:

When the Government have said publicly, as I think they have in connection with the dispute about the Companies Registry and privatisation that under the terms of the

agreement with the operator they would not take less than they had been taking, is that a net less? In other words it is not that they are going to carry on paying £700,000 but they are going to pay the £350,000.

HON CHIEF MINISTER:

That is right. The position is that the agreement that we have got with the contractor provides that on the basis of the income that the registry is generating now we get what we are getting now which is basically 50 per cent and that for every pound of additional income resulting from higher turnover then we get 67 per cent and they get 33 per cent of every additional pound.

HON P CARUANA:

Higher turnover prompts me to ask the question that I should have asked earlier about the freedom that the operator will have to raise charges.

HON CHIEF MINISTER:

None, that is to say, it will require the approval of the Government and it will be a political decision. They will have to make a case. We provide in the contract that we will look at any increase in charges in the light of the need to maintain our charges competitive with other jurisdictions. They can come back and make a case but they are not guaranteed any increase. The position is that we have said to the contractor "By definition you are supposed to be more efficient. So if we are able to generate £700,000 of income and make £350,000 profit and you are more efficient than us then your profit will be..... because you will be able to make more than £350,000 and therefore you can pay us £350,000 and the margin of your efficiency is your return. If, as a result of your efficiency you attract more business then you get one third of every new company and we will get two thirds".

(1) Financial and Development Secretary's Office, was agreed to.

(2) Accountant-General's Department, was agreed to

(3) Income Tax Office, was agreed to.

(4) Customs, was agreed to.

(5) Social Security, was agreed to.

Head 18, Reallocations and Subventions

HON E BRITTO:

Mr Chairman, Contingencies £5,864; in last year's Estimates we get exactly the same figure with exactly the same word "contingencies". I find it difficult to understand how it can be contingencies two years running. Is it one big contingency or a number of small contingencies?

HON CHIEF MINISTER:

It was contingencies in 1988, if the hon Member looks at the first Budget.

HON E BRITTO:

But is the money actually being paid?

HON CHIEF MINISTER:

There is a commitment to pay these societies this and sometimes in the past we have had the situation where the European Movement has brought somebody out to talk at a meeting and they have come back and said "We run out of money and we cannot pay the hotel bills and whatever" and then over and above the £1,000 grant the 'Contingencies Vote' has been used to supplement. So it is used to supplement for any unexpected demands. The same amount of money has been there since 1988 and we have not changed it.

HON P CARUANA:

Item 8, can we know what we are planning for Referendum Day or is that a surprise? We are spending £10,000 on the celebration of Referendum Day.

HON CHIEF MINISTER:

The Self-Determination Group is planning a range of activities which will include competitions for school-children and all sorts of things and we felt that after all it was our idea to make it a holiday, we ought to put a sum in there but we have not yet received from them any specific request so the figure is intended to encourage them to keep to a certain target. We shall wait and see what they come up with.

HON H CORBY:

Section 3, John Mackintosh Home, there is an increase of £52,500, does the Government think that that is enough and how do they arrive at that figure?

HON CHIEF MINISTER:

I said I would provide some additional information at the Committee Stage. Mr Chairman, I thought I ought to draw the attention of the hon Member to the nature of the problem faced by the Mackintosh Homes since we got in. I thought I should bring to his attention that in 1987/88 the Mackintosh Home had a total expenditure of £559,235 of which £405,464 was wages and salaries and the subvention from the Government was £180,000. With an average number of residents of 90 this represented a cost per resident of £6,214 per annum. In the year we have just finished the cost of the Home was £1,100,847; a 97 per cent increase in the five years we have been in Government. However, the expenses, other than wages, have actually gone up by 65 per cent and the wages and salaries have increased in five years by 109 per cent, in excess of 20 per cent per annum, from £405,000 to £847,000. This is the net cost to them after deducting the assistance that we have been able to give as training grants which in the period have come to £90,000. The provision by the Government has grown in the same period from £180,000 to £350,000 which is a 94 per cent increase which is below the 109 per cent increase in wages and salaries but very close to the 97 per cent increase in total costs. Frankly, it is a difficult situation where people are negotiating with their staff and at the end of the day they feel they can pass the bill to a third party which is the Government so we have taken the line of saying "Within a very tough policy of asking departments to keep to budgets year after year without even allowing for inflation, we are prepared to commit ourselves to giving you 15 per cent more every year. You have got to try and run your affairs in the knowledge of that". We have also tried to help in two ways, one is by giving them these training grants which have amounted to £90,000. We have also given them a £350,000 interest free loan from the Social Assistance Fund which is costing us in servicing charges £40,000 a year and saving them £40,000 a year which is not reflected in these costs, and which is repayable. Hopefully it will be repaid when the grant we give them is big enough to make them repay the money but there is no repayment date. They are currently asking us to provide an additional £0.25 million as an interest-free loan which we said we would look at sympathetically. The point I am making to the House is that it is not that we are penny-pinching in the support that we give it but it needs to be pointed out that whereas in 1987/88 it cost £6,200 to look after one elderly person, in 1992/93 it cost £12,200, over £1,000 a month.

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HON P CARUANA:

Mr Chairman, was this the time when we were promised by the Minister for Government Services some information from the Chief Minister on GBC?

HON CHIEF MINISTER:

Yes. On GBC the story is either similar or worse. The actual outturn shown here is only less than half the story. Hon Members may complain about the lateness of the accounts we give them the accounts we get from others are even later. So we have got from GBC accounts up to 1991/92, and we have only got estimates for 1992/93. As I have given for Mackintosh Homes is also estimate, we have not got anything more recent in terms of audited accounts than 1991/92. The figure from our own accounts of the money provided to GBC in 1991/92 was almost £2 million. It was not all recurring, although in 1992/93 we have already recurred £1 million of the £2 million. There was a general subvention of £570,000. The supplement for the Pay Review of £43,000. We financed a voluntary early retirement which cost £233,000 which provided payments where the highest paid individual finished up with £66,000 and the lowest with about £5,000 based on years of service and the salary they were getting. That was not the total cost of the voluntary early retirement. An additional £160,000 has had to be provided in 1992/93 so in fact the early retirements of GBC has cost so far £400,000. We had to provide it as they had no money. We have not seen, I regret to say, a dramatic reduction in the annual running costs as we had hoped partly because, as we were led to expect, there was back-up through temporary contract people to replace the early retirees which we discovered after the event and because there were quite hectic pay increases in the pipeline related to BBC salaries. The average per capita income would do very nicely on these benches if we managed to achieve those levels which some of my hon Colleagues feel we ought to but I am adamant that we must set an example to the rest of the community and we are still with the wages we had in 1988. But it does mean that in looking at any proposals Opposition Members have to realise that once bitten twice shy. We went down the route of financing the BBC installation on the advice of the expert with no political interference and that little exercise set us back £572,000. We then provided for the loan for the equipment so that the contract to Strait Vision would produce a more professional and commercial set-up and that loan which is being repaid out of the subventions we give to GBC was almost £350,000. We then had to advance, in 1991/92, £160,000 out of the 1992/93 subvention because they had ran out of money and when the hon Member says they had been getting the money it is not

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that they have been getting the money so that we have been giving it with a dropper saying to them "Provided you do what the Chief Minister tells you, you can have another drop". That has not been the case. We have given them a glass and they have come back the next day to say the glass is empty. Notwithstanding the fact that we have been restricting them in the expectation of getting more cash, they have still managed to go through £2 million in 1991/92 and we are talking about 69 or 70 people in 1991/92. In 1992/93 the total operational cost has come to £570,000 subvention, early retirement £160,000, advance of 1993/94 £190,000. It is for this reason that we have put this year £800,000 but we do not really know what the final bill is going to be but what I am saying is that the message to GBC is that they cannot come back as they have done in the last year and in the year before that with a projection of something that looks fairly rosy which we say is worth parting with X pounds because at long last we are going to have the outfit on its own, we have to answer here and to the people of Gibraltar for the expenditure of public money, we accept that. Let me make clear that until now we have not interfered either with the decision of the board or with the recommendations of the management. We have simply put up the cash. Certainly on this occasion, we are going to go through any proposals with a toothcomb and if they do not pass the test of convincing us of their viability the answer will be no.

HON P CARUANA:

£800,000 is not a statement then of Government policy as to the maximum that it is prepared to pay, it is a provision at this stage?

HON CHIEF MINISTER:

No, no, the maximum the Government is prepared to pay is the £570,000 we were paying in 1992/93 which in this case is supposed to be to support an outfit on which we have already spent £750,000 slimming down. If we were talking about GSL; when GSL had 600 workers and it was getting a subvention from the Government it would not have been reasonable in this House for the Government at the time to come here and say, "We have made 450 workers redundant and we are going to give the same subvention for 150 as we were giving for 600". Now we are saying the subvention that was originally there for an operation that employed 70 people is the subvention that we are prepared to consider for an operation that employs 25 people. We are certainly not prepared to have an operation employing 25 people getting £1 million.

HON P CARUANA:

Yes, Mr Chairman, I know that it will appeal immediately to the Chief Minister's analytical mind that this £570,000 figure does not include the annual pay review which is given separately and that every year that accumulates because the subvention is left at £570,000 and in 1991 the Government give them the 1991 pay review but then that does not mean that for 1992, the subvention is the £570,000 plus the 1991 review. Every year the Government either accept slicing the subvention because next year's subvention must finance previous years pay reviews.

HON CHIEF MINISTER:

That presupposes that GBC is a totally state-owned enterprise which has no commercial activities and therefore the policy that we have adopted from the beginning was to say to them, "We expect you through the improvement in your performance to be able to pay for your own increases in wages but not in the year in which they arise, so we give you time to reflect higher costs on your customers". What has happened, of course, is that there was a deal proposed which was supposed to bring in a lot of extra advertising revenue and it did not materialise and this was the experts telling us what was needed and we have provided the money to give them breathing space to produce that and they did not produce it. There was a deal proposed that would have everybody getting the message decoded which was supposed to bring in a lot of money from the sale of decoders and we would provide the money originally so that they could invest in the equipment, reach an agreement with BBC, but it was supposed to be eventually self-financing and we would eventually finish up with £570,000. In each case where we have approved the additional public funds to move them from A to B, it was on the basis that they were telling us that if we provided it they would be able to manage on the £570,000. In each case they have not delivered their side and we have delivered ours and I am saying it is at an end.

HON P CARUANA:

Mr Chairman, can the Chief Minister say how the creation of Strait Vision has helped the finances of GBC or even how it has succeeded in reducing the cost to Government of television broadcasting generally?

HON J C PEREZ:

The proposal that was put to us by the General Manager and the board at the time; the proposal to create Strait

Vision was not my invention, it was theirs. They came with a package of having production separately as a result of proposals that were put by the staff to the General Manager and the whole package of encryption of BBC, of Strait Vision, was the whole package put to us together as part of the same business plan. They envisaged that the production would increase the productions, which it has, and that as a result of increasing the local productions and the quality of the local productions that was going to attract enough advertisements around those productions to be able to increase the advertising vote. It has not happened but the Strait Vision part which was to provide better quality productions and more productions than what they used to provide that materialised, what did not materialise was the income arising out of that which had nothing to do with the people in Strait Vision. It had to do with the other set-up.

HON P CARUANA:

The question that all that begs is given that it is GBC money and GBC staff that went into Strait Vision, why could not that increase in production have been generated within GBC given that they were using the same people?

HON CHIEF MINISTER:

Because in every area where we have taken people out of agreements which have got clear demarcation as to what they are permitted to do and what they are not permitted to do, and they are given the opportunity of making money on the basis of their own output, we have found that there is an improvement and we thought the same would be the result here when the proposals were put to us. If we look at the examples we have given in other areas the people that are running Green Arc are the people who were working in the Alameda Gardens when the Alameda Gardens were part of the Public Works. We can ask well why were they not then producing what they are producing now. The answer is because then as far, as they were concerned, it was almost laid down in the Bible that at tea-break everybody went cold and had to have tea whereas now when they are managing their own company if they are in the middle of planting a tree in Queensway they do not stop with half a root out and half a root in because it is time for tea. They finish planting it and then they have their tea. That flexibility we have learnt is not an ideological choice of ours, let me be clear. We have learnt from experience between 1988 and 1992 that small set-ups of motivated people, given an opportunity to work at their own pace and to make an income which is related to their own contribution does produce results that we cannot produce in other ways. When the proposals

were directed to the Minister, he saw it, he recommended it to us and we accepted it. That recommendation was based on the expectation that a small group of people voluntarily doing this and sub-contracting the work from GBC would produce an output which, as the Minister has explained, would enable GBC to obtain sponsorship of those programmes. They have not been able to deliver the income. The expenditure was contracted and we undertook to provide the cash. The cash flow in return has not come in.

HON P CARUANA:

Mr Chairman, can I ask the Chief Minister whether I could consider as expent and subsisting his undertaking to me not to change the status quo without consulting, at GBC?

HON CHIEF MINISTER:

As far as we are concerned, we are not talking about the status of GBC. Certainly, any concerns that the hon Member had at the time which was about the editorial control of news and so on, and if there is anything in the proposals that we have which I think impinge on those concerns, I certainly will honour that undertaking to consult, yes.

MR P CARUANA:

Mr Chairman, it seems that we are boxing in, the undertaking is now..... [Interruption]..... current affairs and my concern in relation to that matter. I think that given the sensitivity of broadcasting generally, and given that the Government really is only talking about the sum of money that it is prepared to pay by way of subvention, I think it would not be unreasonable to expect that any change in the structure at GBC, any decision, for example, if when the options are all handed in, the Government decide not to prefer that GBC management and staff's option but perhaps Strait Vision's option or somebody else's bid which radically changes the structure; who produces the bulk of programmes; how they are funded, whether they are funded directly to the subvention..... I think that we ought to read about it in the press as a fait accompli given that we are talking about the general structure of broadcasting in Gibraltar. We are no longer talking about the amount, the quantum of the subvention then.

HON CHIEF MINISTER:

Frankly, I have no idea what are the options that are going to be looked at except that I am concerned about the cost and the money that we have to produce. That is

my main consideration. In looking at those options, we are not looking to change anything other than the finances and therefore in looking at the finances we certainly will be looking at who in one option wants to be retained or wants not to be retained and earning how much. Those are the kind of considerations. In those areas the answer is no. If we decide that we should not have somebody in GBC, for example, earning £40,000, I do not think it would be a matter for consultation with the Leader of the Opposition whether he earns £40,000 or £39,000.

HON P CARUANA:

Yes, but Mr Chairman, the Government's present involvement in broadcasting is limited to how big is the cheque that they are willing to write and presently the Government does not concern itself with whether somebody earns £40,000 or £20,000. What the Government could say is, "I am not willing to give a cheque for more than £570,000 a year and if you cannot afford people at £40,000 a year with that subvention then this is all I am willing to give and the board must conduct the affairs of GBC within its financial resources". If all it can look to us is for £570,000 does the Chief Minister recognise the difference between deciding the amount of the cheque that he is willing to write on the one hand and saying to GBC, "I will not allow you to pay your news editor £15,000 a year" to use a purely fictitious figure. One is exercising their legitimate right to decide how much the taxpayer will give by way of subvention to GBC and the other is a much more direct involvement in the administration and running and control, albeit at a financial level, of GBC and that the latter would be a departure from the current practice.

HON CHIEF MINISTER:

Yes, and what I am saying is that as far as we are concerned, in looking at the proposals we are going to be looking at the bottom line this time because in the past we have not done it and we have finished up instead of with a bill of £570,000 with a bill of £2 million in 1991/92 and over £1 million in 1992/93 and we are not going to be caught a third time. If somebody comes to me and say that they can do it for £570,000 it will not wear any more than they tell us because suddenly next year where before we were getting £100,000 in advertising we are now going to get £400,000 in advertising. That trick will not work a third time. It has worked twice and therefore if the figures do not add up we will say it is not acceptable because they are going down the same route as they have taken us down twice and they are not taking us down that route a third time. They have got to

demonstrate to me how they can pay somebody £X and only need £X - £10 from me. So what I am saying is that we are going to be doing a much more thorough scrutiny that we have had in the past.

HON P CARUANA:

Yes, I can understand that if the Government are being asked to give a subvention of £570,000 or of £10 it is legitimate for them to see how that subvention is being spent and that might decide whether they were willing to give it in the first place. That is perfectly legitimate and that would not involve a change of the structure of GBC but if as a result of refusing or rejecting the proposal that comes out of the present Gibraltar Broadcasting Corporation, if the Government were to favour, for example, the proposal of Strait Vision, it would require a marked change in the structure of broadcasting in Gibraltar. [Interruption] Perhaps they can put my mind at rest by explaining to me how it would not.

HON CHIEF MINISTER:

I cannot because I do not know what the proposals are of one or the other. What we do know is that one of the differences between the proposals of Strait Vision and the proposals of the rest, from our understanding of the reports that have come out of the meeting, is that one envisages a much higher level of employment and salaries than the others. We will wait to see how the economic miracle is going to be produced but they are going to have to produce a very convincing case.

HON P CARUANA:

But if the Government end up preferring, when all the options are in front one which comes from some party other than the Gibraltar Broadcasting Corporation.....

HON J C PEREZ:

There can only be three parties.

HON P CARUANA:

I do not know who, by Mr Berlusconi.....

HON J C PEREZ:

I told the hon member when I made by contribution to the general principles of the Bill that three parties had indicated a willingness to put a proposal. The General Manager on his own, the staff of GBC who are not seconded

to Strait Vision, and the staff of GBC who are seconded to Strait Vision, they are all GBC.

HON P CARUANA:

Any proposal that involves the continuing to pay the subvention to the Gibraltar Broadcasting Corporation must necessarily involve the Government in dealing with the board of that corporation. Purely hypothetically if they prefer the bid that comes from Strait Vision that would require them presumably either to wipe away the board of GBC and replace it with the board of Strait Vision or to give the subvention to Strait Vision.....

HON J C PEREZ:

The hon Member does not understand. The board of GBC have already come to us to say there is a crisis and to sort it out. So when I can see the proposals I am committed to discussing it with the board of GBC and to tell my colleagues in the Council of Ministers what the preferred option of the board is so we shall take the views of the board into account and the board will have a say in those deliberations but the board has already given up being able to manage the whole affair because it is totally out of control.

HON H CORBY:

On section 3 again on the John Mackintosh Home, from the figures I was given it is double what it cost in 1987/88. What is the commitment of Government if funds run out as far as the Mackintosh Home is concerned? Is there a commitment from Government to keep the Home open?

HON CHIEF MINISTER:

Let me say that given the undertaking that we will provide annual increases of 15 per cent which is how we arrive at that, on the basis of normal increases in rates of pay and the existing levels, then the projection shows that the subvention of the Government would enable the Home to break even and to eventually start repaying the interest-free loan. The reason why we have to say there has to be a limit on this is because there is a tendency which is what I was referring to before that if one is dealing with employees and one can say yes to what they want and then pass the bill to somebody else, then it is very easy. People have to have the discipline of understanding that if they have got to take decisions they have got to take decisions in the knowledge that they will get 15 per cent per annum more which is enough to keep the structure we have got and to maintain annual increases in line with what other people are getting. It

does not allow for the kind of above average increases that we have experienced in the last four years, because then there is no limit, there is no ceiling to this. In addition, the effect of the training grants that were given and what we have done is devise a system where the nursing assistant grade spent a year at Mount Alvernia and we do not recruit in the medical services directly from the labour market. We recruit from them because health authorities cannot claim training grants under Community law, but private Homes can. So the private Home then becomes the training ground for St Bernard and with the passage of time an increase in proportion of those in employment will be people in respect of whom they can claim the training grant. That will also mean that the impact of the annual wage increase will be partly offset by the improvement in the training grant. The training grant at the moment is limited under Community law to £81 a week per person but it goes up every year.

Head 18, Reallocations and Subventions, was agreed to.

Part 2, Improvement and Development Fund

Head 101. Housing

HON P CARUANA:

Item 1. Could we just have a summary of how the 800 comes. We know there are five at Gib 5, why is it 800?

HON J BALDACHINO:

I think it was explained by the Chief Minister at the time. We consider that there might be a requirement to build 800 housing units. I think I also explained it at the time to the Hon and Gallant Col Britto that it might not be just in one estate. The 800 units which is 584 in Gib 5, also money has been spent where we have built in other areas and in other estates, for example, where I think it was 70 in Glacis Estate, four in St Jago's, 20 are being built in Laguna with extra storeys and we are now looking at other areas to see if there is a possibility to build.

HON P CARUANA:

That is not the explanation, Mr Chairman, with respect because the balance to complete on that project is nil. We are talking about a specific item. There was the estimated cost of the project of £38 million. We are now at the tail end the last 3.789, the balance to complete is nil so therefore we must now know what the 800 units are or they were not 800 they were only 585?

HON CHIEF MINISTER:

Mr Chairman, the balance to complete is simply the balance of the unspent funds from the £38 million that were provided originally. That does not mean that we have got in this year identified units on which the £3.7 million are going to be spent because there is also an element there of units being built by direct labour of the department.

HON P CARUANA:

We will end up with 800 new housing units?

HON CHIEF MINISTER:

That is right. If, for example, the first £1 million of that was the temporary housing down at Queensway in 1988. The figure was put there in 1988, and there were 81. Then we had the ones in Poca Roca which were added out of that unit. So this is all the housing that has been paid out of the Improvement and Development Fund since 1 April 1988 and the global figure is 800 units.

Head 101, Housing, was agreed to.

Head 102, Schools and Sporting Facilities.

HON L FRANCIS:

Item 2, Improvements of Sporting Facilities, there is £50,000 reserve, will the Minister say what that is for?

HON M MONTEGRIFFO:

Mr Chairman, it is reserve but I can tell the hon Member it is relation to the upgrading of the outdoor playing areas.

Head 102, School and Sporting Facilities, was agreed to.

Head 103, Tourism and the Environment.

HON L FRANCIS:

Item 1, £100,000, Improvement of Beaches. A lot of this, I presume, is cleaning up after the winter?

HON J PILCHER:

It is not the cleaning up. The cleaning up is covered by the contractor in the summer months. This is annual refurbishment of the beaches, changing rooms, showers and

all the items. The actual refurbishment of the beaches in preparation for the summer season.

HON L FRANCIS:

The point I was going to make is that if we could stop all the stuff being washed out on the beaches in the first place it would save the money having to be spent to pick it up afterwards?

HON J PILCHER:

No, it would save money to the contractor, but yes, I agree.

HON F VASQUEZ:

Are there any plans in place to try and save the beach at Catalan Bay because as far as I can see the beach has almost disappeared completely.

HON J PILCHER:

No, Mr Chairman, it is something that we are looking at. We are monitoring, but we put a tremendous amount of sand there and protected the beach during 1991 and 1992 and the tidal flow is such that normally we will have a lot more sand there for the summer and certainly the beach is bigger at the two ends but obviously it is something which the Department of Trade is monitoring. What I am saying is that the normal tide brings the sand back during the summer and certainly it has not taken the sand away from the two corners. There is a problem in the centre of the beach, there is no doubt about that, but we have no funds provided for resanding of Catalan Bay.

Head 102, Tourism and the Environment, was agreed to.

Head 104, Support Services

HON E BRITTO:

Mr Chairman, in the interest of speeding procedures, can I take Item 2 and Item 4 together? Can I ask for some detail of what is intended?

HON J C PEREZ:

Item 4. I presume that it is the normal vote for the year of repairs to Government Offices and Government furniture and equipment. There are bids departmentally for repairs to Government offices and for furniture and equipment and there is a sum of money placed and those bids would need to go to the Financial and Development

Secretary and priorities decided on what is really essential and has a priority and what happens in terms of both repairs and the furniture and equipment.

HON CHIEF MINISTER:

Can I explain, Mr Chairman, that one of the changes that we introduced this year was that in the past for example, there was Government furniture and equipment 1991/92 £89,000 and then Government furniture and equipment 1992/93 £90,000. We have found ourselves in a situation where if the money had not been spent or if the bills for some of the stuff that had been bought had not come in by the 31st March we were, in 1992/93, with two Heads. The revote of the 1991/92 and the new vote of the 1992/93. What we have done this year is to put a sum intended to cover two or three years and estimate how much of it we were going to be spending in the next twelve months, with a balance to the total. In fact, this year we have got, in terms of furniture and equipment, £70,000 but on the basis that we will be spending £200,000 in three years. It is a more flexible use of the funds so that we can move it backwards and forwards as need arises. In some respects some of these things are triggered off by other things so, for example, if the refurbishment of the Sergeants' Mess gets done quicker then there will be probably a need to use more funds for the furniture and equipment vote. If it takes longer then the furniture and equipment vote is likely to be delayed.

HON P CARUANA:

Item 4 then cannot relate to the same thing? Because if we have got one Head which means Government furniture and equipment, what does Government Offices mean?

HON CHIEF MINISTER:

That is the refurbishment of the structure.

HON P CARUANA:

As opposed to minor capital works?

HON CHIEF MINISTER:

The minor capital works is what was previously shown under the Reallocation Vote which is in fact the work that we do on the existing occupied buildings. The refurbishments are to empty building prior to being occupied.

HON P CARUANA:

As there is no item before that I thought that it might be the cost of fitting out new offices at Europort?

HON CHIEF MINISTER:

Nothing to do with Europort. Europort does not require fitting out.

HON E BRITTO:

Item 7, Community Projects; does the same explanation apply? Have any projects been identified as such for this year?

HON CHIEF MINISTER:

What we have done there is to look at how we can make use of the possibility of creating jobs for the long-term unemployed in order to give them the opportunity to re-acquire the discipline of work and at the same time have a useful product at the other end. We have put in £2 million for schemes which will be using labour on temporary contracts and where we are able to access, in addition to the money that we are providing, Community funding. This is limited to people who have been out of work for more than twelve months. We started with half a dozen people who have been out of work for four or five years. It is taking a bit of time to getting them used to arriving at work in the morning but we feel that if we want to go down the route which I have already mentioned in the employment forum and in encouraging private sector employers to give an opportunity to Gibraltarians who have been out of work for some time, then we have to carry them for a while in an environment where they will not get penalised if in the first working week they come for three days and they do not appear for two, if they arrive late, if they do not turn up without sending a sick certificate. What we are hoping is that the performance will improve during the temporary contract which will be a nine-month contract. At the same time we will put them to areas of refurbishment which we would not otherwise have the money to do with the local workforce which would be a much more expensive exercise but during the period they will be considered by the Employment and Training Unit to be still available for work to be sent to prospective employers. They are not going to be removed from the available pool of unemployed labour. If the scheme works then we ought to be able to recycle the long-term unemployed over the life of the programme. It is at a very early stage, we started with half a dozen people and it has been going for the fortnight.

HON E BRITTO:

Mr Chairman, I welcome that explanation and wish the Government every luck in succeeding.

Head 104, Support Services, was agreed to.

Head 105, Water Services and Waste Disposal, was agreed to.

Head 106, Electricity and Public Lighting, was agreed to.

Head 107, Industry and Development.

HON F VASQUEZ:

One question on this, Mr Chairman, that the second last item on page 94, 'Resurfacing the Highways', forecast outturn is £540,000, as far as I recall we were told at the time that was for the resurfacing of the Sundial Roundabout.

HON J C PEREZ:

What the hon Member was told in answer to a question in the House, is that we were going to use a new scheme for the resurfacing of the roundabout at Winston Churchill Avenue where we were going to use cold asphalt coming in from Spain. We still have not been able to get the contractor to come in on a weekend, preferably Sunday at 3 o'clock in the afternoon, where the traffic is low so as not to stop the traffic flow. They tend to want to come in on Monday morning and we tend to want another day for the project. It is a question of logistics but the funding of it was not necessarily from the vote last year.

HON CHIEF MINISTER:

Can I just draw the attention of Opposition Members to the fact that the conversion of the Stone Block into workshops in subhead 1, included, from the beginning in that programme which is 50 per cent EEC funded, was the Training Centre. This is why what we are saying is that it was always envisaged. The conversion of the Stone Block for which we have got Community funding was an innovative project because we were converting a building into a multi-purpose use and the multi-purpose was that it would incorporate the training centre to provide some academic input into training courses where we are looking primarily at areas like the construction industry but at experienced-based courses so that we have people who not just have paper qualifications but are actually able to

go on a building site and build walls. The start-up workshops for small self-employed businesses are in the same area. So we have got the two things as really compatible. The programme of developing training linked with national vocational qualifications from the UK was intended to be in that building and was part of the original plan approved by the European Community for that building.

Head 107, Industry and Development, was agreed to.

Clauses 2 to 4

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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

Clauses 2 to 4 stood part of the Bill.

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

THE FINANCIAL SERVICES (AMENDMENT) BILL 1993

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

HON M A FEETHAM:

Mr Chairman, I move that Clause 3(b) be amended by inserting after the words "the Authority may" inserting a comma and the words "with the consent of the Attorney General".

HON P CARUANA:

The point whether the victim of the proceedings also had to consent, in other words, if the Authority wanted to stay but the victim did not, presumably then it would not be stayed. If somebody wanted to stay in court then he was entitled to stay in court and the Authority could not say "No, I stay the proceedings and I fine you £25".

HON M FEETHAM:

Mr Chairman, I made it very clear when I moved the Bill originally that in fact he does not have to accept that opportunity. He may choose to go to court.

HON P CARUANA:

So really it was the consent of the Attorney-General and the respondent, and the affected party.....

HON CHIEF MINISTER:

Who may decide to go to court instead.

HON M FEETHAM:

Mr Chairman, it does not remove the individual's civil right to continue and wish to go to court to do so, it just gives him an opportunity to settle.

HON P CARUANA:

But the legislation as it is presently, not that I am hopeful of persuading the Government to introduce further amendment at this late stage, but as it is presently drafted it gives the Authority with the consent of the Attorney-General the right if it wants to to compound on whatever terms it considers appropriate, without, as is presently drafted what they had just explained is not actually what the law would say. What it says is that the Authority "may compound and where the Authority exercises its discretion to compound....."

Mr Chairman, it is very late in the day to try and agree amendment. I would settle for legislating it on these terms and accept an assurance from the Government that they will consider the observation that I have made and they will consider it meritorious to bring an amendment at a later stage.

HON M FEETHAM:

Mr Chairman, we will have to see how it functions. It was made very clear to me when it was explained to me for the

purpose of presenting it here, that this was merely a discretion on the part of the Authority which it could exercise but does not prevent the right of the individual to stay. Let me put it this way, this is the interpretation of the people who have advised me that.....

HON CHIEF MINISTER:

This emanated from the Financial Services Commissioner. When the Commissioner asked the Government for support of this legislation it was put to the Government that the discretion he was seeking to have would not deprive a body to which the Authority said "You have to pay so much" from saying "I will not pay, sue me" and that the amendment would not enable the Authority to say "I will not sue you, you have to pay". That is how it has been explained to us. If that is not what it does then we will correct that omission but certainly our understanding of it is that as drafted it achieves that.

HON P CARUANA:

Yes, it certainly achieves that. It certainly gives the Authority that discretion. The question is whether it gives the authority that discretion in the face of resistance from the aggrieved party and this is not just in dissolvments. I said, when we spoke on the merits of the Bill, that I felt a little bit guilty about raising this point if I did not take it at the time that we made a similar amendment to the Licensing and Fees Ordinance which the Government Members will remember we did about two or three months ago in very similar terms but if the point is good in this Bill it is good in the other one as well. I think it ought to be looked at because it must not deprive the other side of the right to say "No, I do not want you to compound".

HON M FEETHAM:

Mr Chairman, all I can repeat is that certainly we will look at it if it arose and we will see how it functions but as far as I am concerned that is the advice that we have been given and the overriding thing here is that in fact what we are talking about are trivial, administrative things. What has been put to us by the Financial Services Commissioner who is going to administer this is that what he is considering is minor trivial matters. That is what we are talking about.

HON P CARUANA:

We cannot legislate on the basis of what the Commissioner of the day says is how it is going to be operated. If

there is a defect in the legislation the defect is there on its face.

HON CHIEF MINISTER:

Let me make the position clear. We have taken note of the point raised by the hon Member. But the advice that we have got is that the point that he raises does not arise, that this does not deprive somebody who is told by the Authority "We are not suing you, you have to pay £20 or £2,000" from saying "I will not pay, sue me".

On a vote being taken on Clause 3, as amended, 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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

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

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

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

THE MAGISTRATES' COURT (AMENDMENT) BILL, 1993

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

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

THIRD READING

ATTORNEY GENERAL;

Sir, I have to repeat that the Appropriation (1993/94) Bill 1993, the Financial Services (Amendment) Bill 1993, with amendments and the Magistrates' Court (Amendment) Bill 1993, 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 Magistrates' Court (Amendment) Bill, 1993, the question was resolved in the affirmative.

On a vote being taken on the Appropriation (1993/94) Bill, 1993, and the Financial Services (Amendment) Bill, 1993, with amendment, the following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon 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 Blackburn-Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

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 sine die.

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

The Hon J L Baldacino
The Hon J Bossano
The Hon M A Feetham

The Hon 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 Blackburn Gittings
The Hon E G Montado

The following hon members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The House adjourned sine die.

The adjournment of the House sine die was taken at
11.45pm on Wednesday 26 May 1993.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

28TH OCTOBER 1993

(adj 26th November 1993,
3rd December 1993)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fifth Meeting of the First Session of the Seventh House of Assembly held in the House of Assembly Chamber on Thursday the 28th October, 1993, 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 the Environment and Tourism
The Hon J L Baldachino - Minister for Building and Works
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 Social Services
The Hon J L Moss - Minister for Education, Employment and Youth Affairs
The Hon J Blackburn Gittings - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon P R Caruana - Leader of the Opposition
The Hon Lt-Col E M Britto OBE, ED
The Hon F Vasquez
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 15th March, 1993, having been circulated to all hon Members were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Chief Minister laid on the table the following document:

The Gibraltar Development Corporation: Report and Accounts for the year ended 31 March 1992.

Ordered to lie.

The Hon the Minister for the Environment and Tourism laid on the table the following documents:

- (1) The Hotel Occupancy Survey Report 1992.
- (2) The Tourist Survey Report 1992.

Ordered to lie.

The Hon the Minister for Medical Services and Sport laid on the table the following document:

The Gibraltar Health Authority: Report and Accounts for the year ended 31 March 1992.

Ordered to lie.

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

Legal Notice 125 of 1993 - Employment and Training Ordinance - Training (Levy) Regulations 1993.

Ordered to lie.

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

- (1) The Accounts for the Government of Gibraltar for the year ended 31 March 1992 together with the report of the Principal Auditor thereon.
- (2) Gibraltar Heritage Trust: Report and Accounts for the period ending 31 March 1993.
- (3) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 18 to 22 of 1992/93).

- (4) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 4 of 1992/93).
- (5) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 1 to 4 of 1993/94).
- (6) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 1 of 1993/93).
- (7) Legal Notice 110 of 1993 - Income Tax (Allowances, Deductions and Exemptions) (Amendment) Rules 1993.
- (8) Legal Notice 114 of 1993 - Income Tax (Allowances, Deductions and Exemptions) (Amendment) (No. 2) Rules 1993.
- (9) Legal Notice 133 of 1993 - Income Tax (Allowances, Deductions and Exemptions) (Amendment) (No. 3) Rules 1993.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 2.35 pm.

Answers to Questions continued.

The House recessed at 5.00 pm.

The House resumed at 5.20 pm.

Answers to Questions continued.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Friday 26th November 1993 at 9.00 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Friday 26th November 1993 at 9.00 am.

The adjournment of the House was taken at 11.25 pm on Thursday 28th October 1993.

FRIDAY 26TH NOVEMBER, 1993

The House resumed at 9.05 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 the Environment and Tourism
The Hon J L Baldachino - Minister for Building and Works
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 Social Services
The Hon J L Moss - Minister for Education, Employment and Youth Affairs
The Hon J Blackburn Gittings - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon P R Caruana - Leader of the Opposition
The Hon Lt-Col E M Britto OBE, ED
The Hon F Vasquez
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

Before we start with Bills there is a statement I would like to read.

In order to reduce any possibility of an honourable Member being obstructed, molested or insulted when entering or leaving the House of Assembly or intimidated in his parliamentary conduct by an act of contempt, I have directed as empowered by section 2 of the House of Assembly

Ordinance, that the precincts of the House of Assembly be re-designated to include the lobby of the House, the pavement on the western side of Main Street, in front of the House and the whole of the area of the Piazza and the public highway on its three sides.

No kind of demonstration by one or more persons shall be permitted within the precincts so defined and the Royal Gibraltar Police has been informed accordingly.

I must explain that contempt is an act or omission which obstructs or impedes the House of Assembly in the performance of its functions or which obstructs or impedes its members or officers in the discharge of their duties or which directly or indirectly has a tendency to produce such results.

SUSPENSION OF STANDING ORDERS

The Hon the Minister for the Environment and Tourism moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to lay on the table the Air Traffic Survey Report 1992.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the table the Report of the Registrar of Building Societies for the year ended 31 December 1992.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE EUROPEAN COMMUNITIES (AMENDMENT) ORDINANCE 1993

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the European Communities Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of the Bill is self-evident. We actually moved, in our desire to be ahead of the game, quite quickly in implementing the European Economic Area in anticipation of the vote in Switzerland where the

referendum was held. Therefore the Bill in our case, as indeed subsequently happened with the amendment that was brought in at a later stage in the United Kingdom, has to reflect the decision of Liechtenstein to require a certain period of adjustment which was not envisaged at the beginning because everybody was expecting that either both Switzerland and Liechtenstein would stay out or would come in given, amongst other things, that Liechtenstein is in monetary union with Switzerland and does not have its own currency. As it is, of the seven EFTA members, six have joined with the Community in creating the European Economic Area. The result of the European Economic Area, in our case is, of course, that the three of the four freedoms that apply between ourselves and the 12 member States also apply between ourselves and the six EFTA countries that have joined. One area where we are out, as everybody knows, is the question of the export of goods from Gibraltar to the Community. We are currently looking at how the arrangements that we have in the Community under the generalised system of preferences, will be affected by the new arrangements since the EFTA countries did not have a uniform external GSP arrangement. That is, each EFTA country was free to have different GSP arrangements and we are assuming that the probable outcome of the European Economic Area will be that the same rules that apply between us and the Community on the movement of goods will apply between us and the EFTA countries on the movement of goods but this is not 100 per cent clear at this stage. I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, I have heard the comments of the Chief Minister and it appears that the majority of his comments are directed at section 2 of the Bill which deals with the amendment to the European Communities Ordinance to take into account the fact that Switzerland is delaying the participation in the Agreement. As far as that is concerned, section 2 of the Bill is quite clear, Mr Speaker. The rest of the Bill is not so and the first comment that I would wish to make from the Opposition is that section 2 of the Bill is a rather misleading piece of legislation. It is headed "Amendment to European Communities (Amendment) Ordinance, 1992". On reading it, it becomes very apparent that it is not an amendment to the European Communities Ordinance at all but an amendment to the Interpretation and General Clauses Ordinance because on examination of section 6 of the European Communities (Amendment) Ordinance which it is purporting to amend, that was a consequential

amendment of the Interpretation and General Clauses Ordinance. So really 80 per cent of this Bill has little to do with the European Communities Ordinance but an amendment to the Interpretation and General Clauses Ordinance. Mr Speaker, I have heard the comments of the Chief Minister. I have read section 3 of this Bill. I have read section 6 of the European Communities (Amendment) Ordinance 1992. I have also read section 23 of the Interpretation and General Clauses Ordinance and I have to say that I applied my mind to this I had great difficulty in interpreting what it is that section 3 of this Bill is attempting to say. I was hoping that we would get some clarification. I was hoping perhaps the Chief Minister would talk us through this Bill to explain exactly what it is that this Bill is saying. The drafting is so opaque it is virtually impenetrable. Apart from anything else, to some extent the Bill is simply illegible, it does not make sense in English. If one looks at paragraph (g) it says, "where in any Ordinance", then it goes on to sub-paragraph (ii) "relates to matters in respect...." That, to me, does not make any sense at all. I think the word "which" is missing although I was hoping that the Chief Minister would confirm this because I cannot understand what this Bill is saying. I think I understand what it is saying, Mr Speaker, certainly if I look at sub-paragraph (ii) and assuming that the word "which" is supposed to be there, this Bill reads, "where in any Ordinance which relates to matters in respect of which rights, powers, liabilities, obligations and restrictions referred to in sub-paragraph (i) arise or have arisen, there is no such provision as is referred to in that sub-paragraph, that Ordinance may be amended, varied or added to by regulation made by the Government for the purpose of etc". The impression I get, Mr Speaker, is that what this Ordinance is empowering is Government to amend by regulation either an empowering Ordinance or at least to state that any regulation passed under the Ordinance has the effect of contradicting the empowering Ordinance. That is my interpretation of the Ordinance, Mr Speaker. I think I am correct in saying that and all I can say is that that is in direct contradiction of section 23(d) of the Interpretation and General Clauses Ordinance which says, "Where an Ordinance confers power on any authority to make subsidiary legislation, the following provisions, unless the contrary intention appears, have effect with reference to the making, issue and operation of such subsidiary legislation. (d) No subsidiary legislation shall be inconsistent with the provisions of any Ordinance". So on the one hand we have subsection 23(d) saying that no regulation shall be inconsistent with the provisions of any Ordinance and then immediately afterwards, at subclause (g) saying something entirely different. I think that is the intention of this Ordinance, Mr Speaker. As I have said, I have read it several times; I was hoping one of the Government Members would talk us through it and explain to us through what I consider to be an impenetrable and opaque piece of legislation.

HON P R CARUANA:

Mr Speaker, Government Members know, as a matter of principle, that the view taken by the Opposition is that whereas we recognise Community obligations have got to be transposed into the laws of Gibraltar, where the mechanism through which Community law is transmitted to Gibraltar gives an element of discretion to Gibraltar as to how that Community legislation should be implemented. For example, if it comes in the form of a directive the implementation of which is an obligation under the Treaties, then we consider that this House should be consulted as to how directives are legislated into the statute book of Gibraltar. We therefore see no good reason, in the case of directives, why the Government must reserve unto themselves the power to implement directives by regulation as they see fit when it is not necessary, under Community law, that they reserve that power. Therefore, although we understand that that water flowed under the bridge some time ago and that really the Government already have that power under amendments that have already been made to the legislation, we do not, in principle, support any improvement of that power.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, taking the point made by the Leader of the Opposition, I recognise that they have got a different policy from the Government but as he himself has acknowledged, the policy positions of either side are well-known and this has been in place for some time. All I can tell him is, in fact, that as he has rightly indicated, regulations require no action at all, they are mandatory and immediately effective throughout the Community. Directives give the freedom to the member State - a highly contentious issue as to whether that means us or it does not mean us and not to anybody else, to do it by legislation, regulations or administrative action and that act of transposition is, in fact, in all the member States open to one of those three mechanisms. As a matter of course, we try to do it by administrative action where possible, by regulations where there is no choice and by primary legislation when we feel there is no way that the regulation can be effective in doing it and that generally is the procedure that member States tend to do. In fact, he may well be aware that in the United Kingdom they are arguing now for virtually photocopying the terms of the directives because the amount of parliamentary time taken up by the transposition into national law of Community

obligations where regulations are not used. Regulations are used in many areas, for example, we brought in the second banking coordination directive by a change to the Banking Ordinance; the United Kingdom brought it in by a regulation which they left us out of arguing that we could not be brought in by regulation. But it is a problem that is being addressed at the moment by what I understand, as a layman - the Opposition Member will probably understand it better than me - is considered to be a major cultural change in the way the United Kingdom legislates and from what I have read of it, it seems that because the base of the United Kingdom system is common law and the base of the system of the Community is Napoleonic code, they are having difficulty, one understands from the view expressed by the experts on this, in transposing the requirements expressed in the language of the Community into the effective measures expressed in the language traditionally used in the English legal system. It is argued that this is opening avenues for people to take infraction proceedings on the basis that the United Kingdom has failed adequately to give effect to the requirements of Community obligations. There is now a look at simply lifting the wording of the directive and grafting it on to the UK. Certainly this is something we have been looking at for some time and the United Kingdom have been arguing that it could not be done but they are now looking at it themselves. I will give way.

HON P R CARUANA:

Mr Speaker, I fully take on board the basic sentiments of the Chief Minister that if we took through the legislative process in this House every directive that needed to be transposed into the laws of Gibraltar we would get bogged down. On the other hand, where those directives relate to subject matters that are capable of affecting profoundly interests in Gibraltar, then one simply deprives this House of its function of examining that legislation the way in which the Government have chosen to implement. For example and I will not take any more of the House's time now because we will deal with that Bill when we come to it - we consider that insofar as there has been creativity in the legislation relating to the Package Travel, Package Holidays and Package Tour Ordinance which is to implement a directive on that subject matter, that there has been a failure to take into account of the particular circumstances of Gibraltar and we hope to be able to persuade the Government that really that Bill must not be legislated in the form in which it presently is in the interests of trade in Gibraltar and nobody else. That is an opportunity we may not succeed in persuading the Government but we have the opportunity and we have the opportunity because it comes before the House in the form of a Bill. If it were not; if it had just been published in the Gazette one Thursday morning then, of course, we would not have that opportunity which is one of the purposes that this House is intended to serve.

HON CHIEF MINISTER:

I accept the validity of that argument, Mr Speaker. In fact, I can tell him that that Bill also was brought into effect in the United Kingdom by regulation. But, in fact, the existence of the Bill shows that we do not intend to do everything by regulation. For example, I can tell the hon Member that where we have tended to do things by administrative action, it is in areas like the taking of samples to test the purity of drinking water or the level of pollution of bathing water; the reason why we felt, in our case, we had to do it by administrative action is because in the case of the United Kingdom, the United Kingdom effectively does it by regulation because the physical work is done by another institution and to us it does not seem logical to have a system where we pass a law telling the Department of the Environment what to do. What happens in the United Kingdom is that the Department of the Environment will have inspectors who will make sure that local authorities are doing what is required by the Nation State. Therefore, in our case where it is a function of a Government department then the Government department is given the guidelines which conform with the requirements of the Community and told, "This is how you must do it" and they produce a report showing that it is being done which we then send to UK and UK then sends to the Commission. I think, where we bring it in by regulation, we generally do it on the basis that we may want to test, in some areas, the effectiveness of it and, if necessary, review the practicalities of the operation. And where we think it has something that tends to break new ground where this business of package holiday, we decided it required legislation because it was something, frankly, totally new in the sense that we were not amending something in existence or widening the scope of something that was already there. We were doing something in a completely new area, the effects of which we are not 100 per cent sure and certainly one where we are quite open to any suggestions that will enable us to comply with Community law on the one hand and not to put unnecessary burdens on the trade. So we are certainly interested in hearing the comments when the time comes.

Taking the point made by the Hon Mr Vasquez, Mr Speaker, all I can say is that obviously the Government take full political responsibility for the policy of the amendment to section 6 of the European Communities Ordinance and have also got to take the responsibility for any drafting errors the member has made even though the drafting is not a political task because the Government accepts that it answers for the performance of the civil service as well as for the political decision-making. But obviously, as far as I am concerned, the role of the House is primarily to debate policy and the hon Member may disagree with the policy about changing section 6 but whether the grammar is correct, we can parade 'A' levels or 'O' levels in

English literature, I am not sure whether that is something which we can debate with each other. Clearly I will go back between now and the Committee Stage and find out whether there is a requirement in any way to change any of the bits that are there as it is drafted at the moment to make it easier for the hon Member to understand. But the purpose of the exercise here is really to bring into the ability to provide for subsidiary legislation the new areas to which the Ordinance extends Community rights as a result of the bilateral agreement between the Community and the six EFTA countries.

Question put. 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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON CHIEF MINISTER:

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

THE CONTRACTS (APPLICABLE LAW) ORDINANCE 1993

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make provision as to the law applicable to contractual obligations in the case of conflict of laws be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the legislation seeks to bring to Gibraltar, as I understand it, a number of international conventions which have been in existence for a considerable time and I believe that the requirement for us to bring this into our statute book is something that has been raised with the administration by people in the profession in order to enable them to achieve a mechanism that will allow decisions of the court in things like maintenance payments, debts and so on, to be pursued in other jurisdictions. I am also advised that, in fact, we expect that this will mean really that although it is a two-way traffic, we are more likely to be making use of it. This deals with the Lugano Convention and so on.

HON F VASQUEZ:

If the Chief Minister gives way. I think the Chief Minister is directing his comments on the Civil Jurisdiction and Judgements Ordinance which comes later, the first Ordinance is the Contracts (Applicable Law) Ordinance which implements the Rome Convention. I am sure the comments he will make will be similar in nature but I do think he is addressing his comments towards the wrong Bill, Mr Speaker.

HON CHIEF MINISTER:

Well, Mr Speaker, the two Bills, I understand, arise out of the same representations and are concerned with the Rome Convention, the Luxembourg Convention and the Brussels Protocol all of which deal with the implementation of contracts in jurisdictions outside Gibraltar and the ability of such contracts to be implemented in Gibraltar. We have taken both measures at this stage following representations that go back, I believe, a very long time but in some of the areas there were external difficulties in the other jurisdictions in relation, in particular, to the Brussels Protocol which we had pending before we felt we could move on it and be able to ensure that the jurisdiction of our own system was being as effectively recognised elsewhere as we were being required to recognise for other people. The view of the Government has been that we were happy to support this measure which we understand will make Gibraltar attractive as a competing jurisdiction but only when we were sure that other people would recognise our courts in the same way as we were required to recognise those of others and we were not prepared to see an obligation introduced in our legislation without the right being also there for us to pursue the honouring of contracts

in other jurisdictions. At the same time the second piece of legislation has that effect in the area of implementing orders where I understand things like maintenance orders may be an important part of it. But the concept is the same in both cases. Although it is a technical area, frankly, where what we are really talking about is where the legal profession will be able to make use of this mechanism, the reason why I am presenting it rather than the Attorney-General is because we see it as a political issue in terms of the recognition of the status and the jurisdiction of Gibraltar rather than as a matter of purely internal legal administration. Paragraphs (a) and (b) of clause 2 say "a Convention" and I am advised that it should read "the Convention". In cases where something has gone wrong between the drafting and the printing, the view that we take is that we are not putting forward an amendment which requires a vote because it is not a matter of substance, it is a matter of the way that it has actually appeared in the print and therefore rather than move amendments at the Committee Stage to change an "a" into a "the", I am informing the House at this stage in the Second Reading that in paragraphs (a) and (b) of clause 2 it should be read as "the Convention" rather than "a Convention". And in clause 4(1) the words "Any question of" should read "Any question as to". But, of course, the effect of those changes do not alter the meaning; they just make the meaning clearer. Obviously when we come to the one that we have already gone through, if there are similar rewording that can make things better for the Hon Mr Vasquez we will seek to do so. I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, the Opposition naturally support the policy of this Bill. The Rome Convention was a Treaty recently ratified and applied in the United Kingdom. It really harmonises private international law between the signatory countries in a way which clarifies the law of which country applies in situations of contracts between nationals of signatory countries. To a great extent it actually applies the existing common law as to private international law which determines matters of forum and the applicable law on forum convenience, etc. Any Bill, Mr Speaker, which gives local effect to European treaties and conventions is one step further towards Gibraltar taking its proper place in the international community and one step further towards making Gibraltar a sophisticated and fully developed jurisdiction and this Bill is therefore to be welcomed.

MR SPEAKER:

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

HON CHIEF MINISTER:

I do not wish to add anything to what has already been said. I think it is self-evident that this is something that is good for Gibraltar.

Question put. Agreed to.

HON CHIEF MINISTER:

I beg to give notice that the committee Stage and Third Reading of the Bill will be taken at the adjourned meeting.

THE LITTER CONTROL (AMENDMENT) ORDINANCE 1993

HON J E PILCHER:

I have the honour to move that a Bill for an Ordinance to amend the Litter Control Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON J E PILCHER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill in front of us seeks to do two things. As Opposition Members will see, the fines in this particular Ordinance have been put into the standard scales and this is quite standard - if I can use the word - Mr Speaker, in most of the Ordinances, as we bring them to the House of Assembly to standardising the fining mechanism. The important aspect of the Bill is the one related to the change in various sections which brings into being the new definition of litter for the purposes of this Ordinance and the introduction of the terminology "dangerous litter" which means litter which by reason of its size, volume, nature or the place in which it has been thrown down, dropped or deposited could constitute an obstruction or a danger or a health hazard. The idea of creating two types of litter is related particularly to the creation of the fixed litter offences. The fixed litter offences, undoubtedly, has worked. It has meant that apart from the major impetus given by the Government in trying to clean up Gibraltar, the fixed penalty offences has created a

situation where people now understand that not only are the Government using the mechanism of trying to mentalise people and to create a cleaner Gibraltar but we have also got a stick with which to hit people through a fining mechanism if, obviously, they break the law. However, Mr Speaker, having gone down this path quite successfully, what we have found is that we had to create a new mechanism because it was, we felt, unfair to have a situation where somebody was walking down the street and dropped a packet of cigarettes on the ground and was given a fixed litter ticket of £25 - it is now amended to £30. We also had a situation where somebody put five or six bags of refuse or dumped a lorry in the corner of one of our side streets and the mechanism was then that we either took them to court which is a very long process or we issued a fixed litter offence and the person paid £25 or £30. I think the enforcement authorities took the path of issuing a fixed litter ticket and we felt at that stage that by the introduction of dangerous litter what we would then have is the standard fine for people who drop litter as such and a standard fine for those who drop dangerous litter which, as I have explained in the definition, is a much bigger offence than just dropping a packet of cigarettes on the ground, Mr Speaker. The Litter Control Committee believes that this would be an added mechanism in order to fine people who break the law. In the case of the fixed litter ticket, a person who believes has been unfairly treated or unfairly fined has the right to go to court and argue it there. But obviously he is always starting from the premise that the court will understand that the litter ticket is £150 and therefore if he is found innocent the ticket would be quashed. Normally the fining mechanism will start from £150. The Government and the Litter Control Committee believe that this will be an added mechanism in order to maintain Gibraltar clean, Mr Speaker. I commend the Bill to the House.

MR SPEAKER:

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

HON L H FRANCIS:

Mr Speaker, the Opposition support, in general terms, the principles of the Bill other than our usual objection to the standard scales which we will bring up later at the Committee Stage. The only other point we would wish to raise is that in the definition of "dangerous litter" we have the term "dangerous litter means litter which by reason of its size, volume, nature or the place in which it has been thrown down, dropped, or deposited could constitute an obstruction or a danger or a health hazard". I would just like to give notice that in the Committee Stage we

will be proposing an amendment to eliminate the word "could" so that it would read "dropped or deposited constitutes an obstruction" since in whose opinion something could cause an obstruction or could be a danger? It makes it rather vague and ambiguous and we would like to give notice that we will be raising that at the Committee Stage. Thank you, Mr Speaker.

HON P R CARUANA:

Mr Speaker, simply on a point of principle and I endorse what my hon Colleague has said. We support the principle of reasonable measures that strengthens the administration's hand in the common purpose of keeping Gibraltar clean and, indeed, enhance it; making Gibraltar cleaner than it actually already is rather than just maintaining it. But if we are going to draw a distinction between ordinary litter and dangerous litter, then the difference must be in the dangerous and therefore for litter to cease to be litter and to become dangerous litter it must actually constitute a danger or an obstruction. The moment that one introduces the word "could" one is really destroying the distinction because every litter is capable of being dangerous in certain circumstances. If one says "which could constitute an obstruction" really one is bringing it back to square one. Really what the Ordinance should say is everything is litter but if it constitutes an obstruction or a danger to health or hazard then it is dangerous litter and therefore we are going to deal with it more severely. Although it is more a matter for the Committee Stage, we raise it as a matter of principle at this stage because it does actually go to the principle of the Bill which we think is not actually being properly implemented by the words used.

MR SPEAKER:

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

HON J E PILCHER:

Mr Speaker, in the first instance I thank the Opposition for their support. I think in questions of litter control we have always had the unanimity of this House and I thank the Opposition for that. Mr Speaker, in the case of the specific point made on the changes of the word "could" to "will", I would like to say - and obviously I cannot stop the Opposition putting in as many changes as they would want to bring in the Committee Stage - that having raised it in the discussion in principle, I would also like to say that we have also looked at that possibility and we decided to go for the word "could", Mr Speaker,

because if we go for the word "will" then the litter would have to constitute an obstruction, a danger or a health hazard at that particular moment and that is not the purpose of the dangerous litter. We must remember, Mr Speaker, that in the first instance dangerous litter is really a terminology that we need to use to understand the difference between one and the other. But the word "could" has been purposely brought in and I will give the hon Member an example. If somebody takes the rubbish out of his house and puts it in the corner of a side street, at that particular moment that rubbish does not constitute a health hazard but because it has been deposited in the corner of a side street in the middle of August in three or four days time that rubbish would become putrid and therefore, at that stage, would be a health hazard. What does the authority do, Mr Speaker? Does the authority wait for three or four days until it becomes putrid and therefore is a health hazard? What the law is seeking to do, Mr Speaker, is making people understand that if they put, for example - and this is only an example and I could mention a thousand examples of why it should be "could" - the person who is depositing the rubbish in a place where he knows will not be collected, knows that if that is not collected that household refuse will eventually become a health hazard and that is the reason for the word "could". It would be, in my humble opinion, the decision of the judge at the end of the day whether it could or it could not and therefore whether it would or it would not. Thank you, Mr Speaker.

Question put. Agreed to.

HON J E PILCHER:

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

THE PACKAGE TRAVEL, PACKAGE HOLIDAYS AND PACKAGE TOURS ORDINANCE 1993

HON J E PILCHER:

I have the honour to move that a Bill for an Ordinance to transpose into the national law of Gibraltar Council Directive 90/314/EEC on package travel, package holidays and package tours be read a first time.

Question put. Agreed to.

SECOND READING

HON J E PILCHER:

I have the honour to move that the Bill be now read a second time. The Bill in front of us today, I believe, gives long awaited protection to clients of the tourist industry. It is not perhaps to this extent but it is quite standard in most European countries and certainly in most countries of the western world, where there are mechanisms and ordinances that protect the clients in the tourist industry. Many organisations have been set up and are regulated by countries in order to protect the client. I have done a little bit of research and I think the previous Gibraltar Governments have, in fact, tried to put mechanisms into place for the protection of the client but mostly during the closed frontier. It was difficult because it was always felt that it was tight for the trade particularly in an area as small as Gibraltar where the turnover related to the smaller travel agents. It was very, very difficult to be able to implement serious legislation. The Government were advised some two years ago that there would be a requirement to introduce legislation for the protection of clients and these discussions have been going on backwards and forwards with the trade now for the last couple of years. EC Directive 90/314 in its existing form was something that the Government felt could await no longer and having drafted the Bill it was the intention of Government to discuss this with the trade. We have not only been discussing it with the trade over the last two years but more particularly over the last two months since we published the Bill. There are many areas of the Bill which are not yet totally clear particularly from the clarification of certain areas which I will now explain. I would like to affirm the words that the Chief Minister has said that we are open to advise from the Opposition if they believe that what we are trying to do and what the EC is trying to do can be better satisfied in any way by amending any of the areas. I would like also to advise the House that it is not the intention of the Government to proceed with the Committee Stage and Third Reading of this Bill at the adjourned meeting but at the next House.

I would like to hear the comments of the Opposition Members to this Bill but very briefly the Bill is divided into four main areas. The first area, I think, is an area of the proper information which a tour operator has to give to a prospective client because we have had many situations in the past particularly on brochures where there were always hidden areas which the tourist did not realise until he actually got to the destination and was asked to pay a supplement or was asked to pay departure taxes. The first aspect of that, particularly the one related to clauses 4 to 8, is an explanation of the proper information that the tour operator/travel agent is now duty bound to give by law to a prospective client. There are not any

difficult areas there except for perhaps clarification of words as they appear in the Bill, for example, "so short". I think we need to identify what the word "short" is. In my opinion, 72 hours is a period short enough for the purposes of the information. The second aspect of this Bill is proper contracts between the parties. Again this is an area which has been sadly lacking where there is now in the Bill clearly specified what the contract between the two parties has to specify. There are areas where, because of differences in the perceptions in national laws, for example, in hotel classifications, perhaps there needs to be certain clarifications in some areas but there is very little difficulty in understanding and accepting that a contract between those two parties has to be one that clearly explains to the individual the holiday that he is buying and the problems that he is getting into. Let me just give an example, it is now the onus of the travel agent - called "the other party" in the Bill - that in the contract he has to specify the visas required by the individual when purchasing the package because we could find and we have found ourselves in situations where the person buys the package, tries to board an aircraft to take him to that area and he is told that if he does not have a visa he cannot go. At that stage what the Ordinance is doing is putting the onus of responsibility on the travel agent to advise, under contract, the information required and the contractual obligations required. The third part of the Bill - it is a long Bill so I am virtually skimming over it, I cannot go into every single aspect of it - and, I think, the most important part is the security that has to be provided by the entities that deal with package holidays which is, as I was saying at the start, Mr Speaker, a quasi normal situation in other countries. It is a bonding structure particularly on the back of a problem relating to liquidation or insolvency of the entity that is selling the package tour. We have seen, particularly in the UK, and across the board in Europe and, unfortunately, in Gibraltar over the last couple of years, small and even big travel agencies/tour operators going into liquidation and having a situation where a lot of people who have booked their holidays and paid for their holidays cannot recover their money, cannot go on their holiday. What is even worse, Mr Speaker, thankfully not in the case of Gibraltar but certainly in the case of UK, is that people who have bought packages, who have been transported to a third country and then cannot come back because the entity that took them there has gone into liquidation and they find themselves stranded in the country where instead of being a holiday it turns out to be a total trauma. It has to be two of the three or four areas, that has to contain a bonding structure so that the client is protected from liquidation, from insolvency and, in fact, from other areas of the Bill, Mr Speaker. There are difficulties in this area this is one of the reasons why the Government feel that we are going to delay the Committee Stage and Third Reading of the Bill. It relates to the peculiar

circumstances of Gibraltar, Mr Speaker, because it is a small market. In discussion with the trade this has been put in question by them and we are now going back and making sure that our understanding is the understanding by law. We feel that the situation of a package sold in Gibraltar is only for the element of the package which originates in Gibraltar which means that the travel agent in Gibraltar would not be responsible if he sold an onward package of a Thomsons or a Kuoni or a Virgin. That aspect of the package is not an aspect of the package which the local travel agent/tour operator would be responsible for because the law of Gibraltar will only make the travel agent responsible for the package that is the package of the originating country. This, Mr Speaker, is our understanding. It is not very, very clear and this has been brought to the attention of the Government by the trade and before we proceed with the Bill we have to make absolutely sure that that is what it should contain and say and if it does not we will bring our own amending legislation to ensure that the package is an originating package. If not then we will have to go back to the drawing board with this Bill because, if not, the bonding related to a package which is more than just getting a plane and an hotel and a package created by Gibraltar is a problem so we might have to seek further advice, Mr Speaker. The last element of the Bill and, as I say, I have just broken it very briefly into four sections, is the monies in trust. This is an element of the directive which the United Kingdom has not totally transposed into their national law. Notwithstanding the fact we felt that, if nothing else, in the First and Second Readings of the Bill it should be there. I would like in the first instance to hear the comments of the trade which I have and obviously we would also like to hear the comments of the Opposition. It is an important aspect of the protection of the client because particularly in these days of difficult cash flows for businesses and difficulties in liquidities of businesses, it is always very easy for a business to utilise the deposit being paid by a bona fide tourist. It is easy for them to use that deposit for cash flow and liquidity of the business and then the business gets into difficulties, goes into liquidation and the person finds that the deposit that he has paid is not a deposit that has been paid for his holiday but has been paid to help the cash flow of the business. I think that if we could set a mechanism in place in Gibraltar which was not a very difficult administrative or costly mechanism by which those monies which a bona fide client buying a holiday deposits, goes to a trust until that money has to be paid for the execution of the contract for the holiday, I think that would be a protection of the client which would be of benefit to the many, many holidaymakers that emanate from Gibraltar. However, I understand the difficulties of creating that and, again, it is an area that I am now looking at particularly with the accountants to see how this could be set up without it being an administrative nightmare

or a very costly element because then it would defeat the purpose for which it had been created. But, having said that it is not something that we can leave out if we wanted to but to say, as some people have said to me, that the UK left it out and therefore we should does not follow because this is why we debate our own legislation in this House and we believe that we should have stricter or better legislation than the UK it will not be the first or the last time that we have done it. Mr Speaker, there is a lot more that I could but I think at this stage I would want to hear what else the Opposition would want to raise and therefore I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, as the Minister is aware and the Leader of the Opposition has already indicated, we in the Opposition cannot support this Bill for a number of reasons which I am going to deal with at some length because, obviously, this is the only opportunity we get to refer ourselves to the policy of the Bill and it is quite a long Bill. I think the first point I would wish to make is we accept that this Bill is enacted in implementation of an existing EC Directive but the problem as we see it is not so much what the EC Directive says as what has been added to it either by a UK draftsman or by a draftsman here in Gibraltar. As presented, this Bill is unacceptable and unnecessary to a great part for the implementation of the Directive. I should say that we in the Opposition are aware of the responsibilities of this legislature and we are aware that we must enact EC Directives locally to the extent that the law enacted in Brussels has application in Gibraltar. So obviously we need to enact EC Directives. And we also accept quite candidly that we need to pass consumer protection laws. We are the ones who have been saying it, and certainly in the field of package travel it is to be welcomed that laws are being passed to protect consumers from the malpractices of unscrupulous travel agents or travel agents who do not organise their businesses sufficiently well. But that said, we in the Opposition are very cognizant of the fact that we have to be careful that we do not lose sight of Gibraltar's circumstances in the enactment of any EC Directives. It appears to us that this Bill for a large part has been drafted by a UK draftsman. And it seems very clear that it has been drafted specifically to prevent and avoid abuses by large companies flying very large numbers of tourists to various destinations and either going bust and going down holding many millions of pounds of deposits paid by prospective

holidaymakers or leaving many thousands of tourists stranded in various parts of the world. Obviously we have seen this, we have seen a number of especially UK travel operators that have gone down in this very ignominious fashion leaving people stranded. Fortunately, Gibraltar does not have that sort of tourist industry at all and this is a Bill which is a sledgehammer to crack a very small local nut. Although it refers to package holidays, package tours, it really applies to all local travel agents and local travel agents have two principal functions. One is that they act as agents for large tour operators which already are covered in their home jurisdiction by the provisions of this Directive. I am referring, of course, to Thomsons, Kuoni, Cosmos, Virgin etc. So to the extent that the local agent is ferrying people onto existing large tour operators, the consumer is already protected because if Thomsons goes down then any person in Gibraltar who has bought his ticket through Exchange Travel for a Thomsons holiday will be protected under the UK legislation. I note that the Hon Mr Pilcher has said that it is not the intention to cover local travel agents who are merely acting as agents for existing tour operators, unfortunately as drafted this Bill does because the definition of package holiday in clause 2(1) of the Bill, Mr Speaker, makes it very clear that package means the pre-arranged combination of at least two of the following components: (a) transport; (b) accommodation and we all know that local travel agents on the whole what they do is if I go along and buy a Thomsons holiday he will book my holiday with Thomsons but he will also book me on a flight for London and book me for an overnight stay in Gatwick, for example. By merely booking my flight and putting me in overnight accommodation he falls into the definition and therefore he falls under all this enormous sledgehammer which has been created under this Bill and that, I think, is a principal amendment that has to be considered for this Bill. If it is intended to cover the local trade only to the extent that the local trade is itself organising package tours then the definition of "package" under the Bill has to be looked at very carefully. Coming to the second principal function of local tourist operators, is that they organise their own small packages; they organise groups of Gibraltarians travelling abroad they will book the holiday and organise the package or, for example, coach tours into Spain or Morocco or whatever and to that extent obviously local travel operators have to be covered by the Directive in the Bill. The point is this that any measures that we enact in Gibraltar in application of the EC Directive must comply with the requirements of the Directive without losing sight of the particular situation of the industry in Gibraltar and we fear that in this Bill the cloth of the Directive has not been cut to suit the local operator. The cut of this Bill makes a suit for a very large, very powerful German or British tour operator, it does not suit the requirements of the local travel agency industry. I take heart from the assurances that the Minister has given us

that obviously the Bill will be reconsidered and thank goodness for that, Mr Speaker, because if this Bill was to be enacted in its present form it would drive many local operators to the wall, have no doubt about it. I want to be specific on that, I want to now turn specifically to the various provisions of the Bill. The Minister has said that really the Bill is divided into four parts. I think the Bill is actually divided into two parts. Clause 3 really acknowledges this. In the application section it says "(1) This Ordinance applies to packages sold or offered for sale in Gibraltar. (2) Sections 4 to 15 apply to packages so sold or offered for sale on or after the date determined under section 1. (3) Sections 16 to 22 apply to contracts which, in whole or part, remain to be performed on the date determined under section 1". So really it is two main parts, clauses 4 to 15 and clauses 16 to 22. The differences between these two parts may not be immediately apparent, one needs to study the Directive, which I have in front of me, to understand the distinction and to understand what this Bill is purporting to do. Stated simply and briefly: clauses 4 to 15 apply the general provisions of the Directive whilst clauses 16 to 22 apply only one article of the Directive, that is article 7, and embellishes article 7 in a way which the Directive does not require. This is what we in the Opposition think it is totally unnecessary and it is going to be very counterproductive to the local industry. Dealing first with clauses 4 to 15: these as the Minister said deal with, for example, the information that must be stated in brochures; the information that has to be included in a contract for a holiday; the various implied terms in every contract for a package holiday, etc. All these requirements set out in clauses 4 to 15 are set out distinctly in the Directive and therefore if we are going to enact the Directive we might consider them onerous, we might consider the provisions meddlesome but we have to apply them and therefore we can have no quarrel with them. They are, for the most part, unavoidable and they are, for the most part, desirable as introducing a measure of consumer protection, so no quarrel with that, although there are two points I would make. The Minister said that it was not the intention of the Bill to make the local tour operator responsible for a Thomsons holiday, for want of a better word. Well, if the Minister looks at clause 15 he will see that the Bill does exactly that. The clause reads "The other party to the contract" - the other party being the travel agent - "is liable to the consumer for the proper performance of the obligations under the contract," bearing in mind that under the definitions section "any package" is covered by this, ie the fact that the local travel agent has put the Gibraltar tourist on a plane and puts him on an overnight stay in Gatwick makes him liable under the Ordinance, so he is already liable "irrespective of whether such obligations are to be performed by that other party or by other suppliers of services". So it says that

the travel agent who has sold a holiday, even though he is not supplying the service, even though Thomsons is supplying the service, if Thomsons is in breach of any of the provisions of this Ordinance, the local travel agent has to face the music. That is something, again, which we would urge Government to reconsider and look at very carefully because it could destroy local businesses. There is one other aspect of the first part of the Bill. Although I said in general terms the first part was acceptable, there is a rather invidious element which is not contained in the Directive and that are clauses 4(2), 5(3), 7(3) and 8(4). These are all similar provisions in four different clauses. I will read clause 4(2), "If an organiser or retailer" ie the travel agent "is in breach of sub-section (1) he shall be liable to compensate the consumer for any loss which the consumer suffers in consequence". Again, this is not a requirement of the Directive. This is liability, this is the imposition of civil contractual liability on the person selling the holiday is not something required by the Directive. To some extent a person who sells a holiday and does not perform a contract is going to be, obviously under our law of contract, is going to be liable anyway but as we know this Bill imposes a number of further obligations which may not be included in the contract, it actually refers to implied terms of the contract. The way that it is drafted, this Bill is making the local operator liable for any breach of these implied terms or onerous terms imposed by the Bill, something not required by the Directive. I have the text of the Directive here. An English draftsman has put that in and the effect of this is, again, that it is going to make local operators liable for things that are not in the contract, items and elements of the contract which have been included by the statute. It is our view, in the Opposition, that this law essentially is a consumer protection measure and as such we need to impose those obligations contained in the Directive but the local tour operator should not be made liable civilly for any breach of those. What any breach of those requirements should entitle the consumer to do is to complain to a consumer protection authority and then the consumer protection authority can investigate and, if necessary, fine the operator. But the Government must not, for goodness sake, open the floodgates to civil claims against these businesses that may well have the effect of driving them against the wall. I have referred to clauses 4(2), 5(3), 7(3) and 8(4) so my submissions and my arguments are directed to those four sub-clauses. I concede that in fact clause 15(2) of the Bill makes a similar provision. Again, it is a similar sub-clause to the ones I have referred to, which says "The other party to the contract is liable to the consumer for any damage caused to him by the failure to perform" etc. I have not referred to that clause because, in fact, article 5 of the Directive specifically requires that. It is only in respect of that clause which that imposition of civil liability is required by the Directive, in respect of no other clause does the

Directive require that. So why should we have it? Why should we have greater protection and greater prejudice to the travel agents than anywhere else in Europe? Mr Speaker, that closes my address as regards the first half of the Bill.

Turning to the second half, clauses 16 to 22. None of these sections, with the exception of clause 16(1), appear in the Directive. The Minister said that Britain had not applied the bond provisions but that we were doing so because they were.....[HON J E PILCHER: The trust provisions.]the trust provisions, that is right. I apologise. In fact, there is nothing in the Directive about bonding, insurance or trusts. All the Directive says, at article 7, it basically repeats clause 16(1), and that says "The organiser and/or retailer to the contract shall provide sufficient evidence of security for the refund of the money paid over and for the repatriation of the consumer in the event of insolvency". That is what the Directive requires. The local operator has to be able to show that he can either refund the consumer's money or repatriate him in the event that the company goes bust. That article 7 is incorporated in clause 16(1). Every single other clause of this Bill is the work not of a Brussels draftsman but the work of either a UK or a local draftsman and we consider that the provisions are far too onerous. Again, to use the analogy, the sledgehammer to crack the nut. As drafted, and bearing in mind that the Brussels Directive does not require any of this, all the Brussels Directive requires is that some security be given. In other words, that the authorities in Gibraltar be satisfied that every package operator is able to either repatriate or refund. That has been interpreted as imposing the following obligations on the local tourist trade operators: (1) there is the requirement for a bond set out in clauses 17 and 18 whereby travel agents must secure a bond to cover all the estimated costs of repaying to customers all monies paid for contracts which cannot be performed in the event of insolvency; (2) they have to take out an insurance, under clauses 19 and 20; (3) in addition, they have got to set up a trust where any monies they take from the consumer, they cannot put into their account, they have got to pay to a trustee who will hold the money until the trustee is satisfied that the money has been spent on the holiday and the holiday has been completed. We all live in the real business world and I have spoken to operators in the trade and it is the view of everybody that these three things together will impose an impossible burden on the small businesses of Gibraltar. Bearing in mind also that we are not faced with a situation where tourists are going to be abandoned overseas because, let us say, XYZ Gibraltar Travel Agent Ltd goes bust. XYZ Gibraltar Travel Agent Ltd does not charter flights, does not have its own airline; all it does is put people on other people's flights and if any company goes bust on which a local tourist is he is going to be covered by the provisions of this

Directive as implemented in the home State of the country that supplies the airline. So those tourists are always going to find their way back home. All we need to do is guarantee that basically the travel agent is not putting the money in his pocket and not effectively ordering the holiday and he goes bust and the holiday has not been ordered. It is the view of Opposition Members, Mr Speaker, that that can perfectly and adequately be achieved by the provision of a bond. Most of the reputable players in the field already provide that bond, they all have that bond, it is the usual practice. In fact, those affiliated to IATA have to do it by course. IATA requires a bond from an affiliated travel agent and so a lot of the travel agents already provide that bond, a lot of the travel agents already provide the security that the consumer requires. It would simply drive a lot of perfectly competent, perfectly solvent local operators to the wall and it would cause the local businesses and industry enormous hardship to enact the Bill as at presently drafted. It is our view, Mr Speaker, that a lot in clauses 16 to 22 is simply unnecessary, it is not required by the Directive and it goes completely over the top. It is our view that these clauses must have been drafted in England, I cannot believe that a local draftsman, bearing in mind the necessities and circumstances of the local industry, has drafted clauses of that nature. So I take heart from the assurances that the Minister has given that this Bill will be reconsidered. We would ask for it to be reviewed very carefully, after very careful consultation with the trade. Let us please, and I urge that this House does not take the Italian attitude to legislating which is, "Well, we will pass the Bill but we are not really going to impose these obligations". If it is in the statute book it is because we are going to enforce it, if we are not going to enforce it these provisions should simply not find their way into the statute book. We cannot support this Bill as presently drafted. We acknowledge and we support the principle and the logic of the Bill as a consumer protection measure but we think that this Bill, as presently drafted, has not been thought out carefully and is going to have adverse effect on the local trade. In fact, it might even accelerate the very situation which it is trying to avoid. Clauses 21 and 22 provide the trust provisions and they say that the trustee shall take the costs of administering the trust out of the monies paid into the trust. So we could, Mr Speaker, have the absurd situation where a travel agent pays money into a trust, goes on to the trustee and says, "I need these £15,000 now to get these seven tickets for the package tour to Barbados" and the guy says, "No, I am keeping that, those are my fees for administering the trust" so the travel agent cannot buy the tickets for the holiday. It is an absurd situation but it may actually provoke the very situation it is trying to avoid. Not enough thought has been given to this, Mr Speaker, and we cannot support the Bill in its present form.

HON CHIEF MINISTER:

Mr Speaker, let me say that as a matter of general policy the approach of the Government to transposing into the national law of Gibraltar, Community obligations is that we do just that, we transpose Community obligations and we do not do things that we are not obliged to do. Certainly I can tell the Opposition Member that if there is the remotest possibility that there are things here that are not required they will not be there by the time the Bill is passed. Let me say that it is not true, in fact, that this is something that has been done hurriedly, it is something that has been in the pipeline for a very long time because I can tell Opposition Members that we, as a matter of policy, were refusing to implement these measures in Gibraltar when the United Kingdom published its original draft regulation transposing the obligations into United Kingdom law by regulation and we found that the definitions that had been used effectively left Gibraltar out. It is one of the very few occasions when we actually succeeded in being put back in when the final legislation came out in December 1992. That is in the area of bonding where we have used the same wording as in the United Kingdom where it provides who is entitled to provide the bond and it says, in clause 17(7) in the definitions, "authorised institution" means a person authorised under the law of a member State to carry on the business of entering into bonds of the kind required by this clause". I am drawing the attention of the House to this particular point because, in fact, the wording there is the same wording as there is in the regulation that was passed in December 1992 in the United Kingdom. But the original wording said, "authorised institution" means a person authorised under the law of another member State" and instead of saying "a member State" it said "another member State" and wherever the United Kingdom says "another member State" we are told by the United Kingdom that we are not either in another member State or in the member State UK which means we are suddenly left out of the Community. In fact, this particular Directive has been transposed into the national law of the United Kingdom recognising Gibraltar as part of the Community and allowing, for example, an insurance company or a bank in Gibraltar to be able to compete for the business in the whole of Europe of providing bonds only because of that change of that one word. This is a particularly important issue for us because in the case of the Second Banking Coordination Directive, the United Kingdom has given effect to it, as I mentioned earlier, by regulation and not by an Ordinance like we did, and in the regulation in the United Kingdom which was published in July 1992, hon Members will see that a bank is described as a credit institution licensed in the United Kingdom by the Bank of England or licensed in another member State and therefore as a result of that particular piece of legislation of July 1992, Gibraltar banks are not Community banks in the

United Kingdom although according to the view of the United Kingdom they are Community banks in the other eleven member States. We were not able to persuade the United Kingdom to change that regulation and therefore the final version of the regulation in December 1992 still left us out. So we finish up, in our view, with the absurd situation that a bank in Gibraltar is not a licensed credit institution in the United Kingdom to do business other than to sell bonds to package tour operators because in the initial legislation in package tour operators, the authorised institution that could provide a bond was defined the same way in both regulations; in the one on banking and in the one on package tours. In December 1992 it was changed in one and not in another. Having brought the matter up with the Foreign Office on the basis that it showed that the reason that they had given the Government of Gibraltar for excluding us was not acceptable, they have argued that it is not possible to provide for Gibraltar by regulation, that it is ultra vires to do it in the case of Gibraltar although not in the case of anybody else. It would follow that the package tour regulations of the United Kingdom of December 1992, which apply to Gibraltar, would then be ultra vires. I have to say that rather than persuade them that the rest is wrong and that they should be included, their response has been that it may well be that it is ultra vires and that we should be kicked out of the bonding as well as of everything else. So we have not made a great deal of progress using that argument. But the position that we took was one of deferring the implementation of this in Gibraltar until we were satisfied that the reciprocity existed and therefore the provisions here which are the result not just of drafting in Gibraltar but also of consultation with the EC unit in UK as to what the member State responsible for our external affairs considers the legislation in Gibraltar has to look like to avoid the possibility of that member State being exposed to infraction proceedings, which is the only reason why they can interfere in our powers of legislation. The only way that the United Kingdom can come along and tell us what to do, as far as we are concerned, is if they say, "Look, what you are doing places us in a position of risk in that we may be taken to court for having failed to fully transpose into the laws of the member State our Community obligations because we are doing it in the UK and not doing it in Gibraltar". That is the only argument that we accept and we accept the validity of that argument. But even in that context our position has been that we are not prepared to do it unless at the same time as we are giving other people rights in Gibraltar, Gibraltar institutions enjoy those rights in the UK and in other member States. Therefore the debate over this particular point held up the bringing of this to the House for the last six or seven months so it is not a question that it has been put together in the last couple of weeks, but we will certainly take careful note of the arguments that have been put there and between now and the Committee Stage we will take a very close look

at it and if we feel that there is mileage in reducing any burden on the local trade then we will put off the Committee Stage to a future meeting of the House rather than take it now.

HON P R CARUANA:

Mr Speaker, in support of the comments made by my hon Friend, Mr Vasquez, and in a nutshell, I think, the Opposition's objection to this Bill is really that it fails to take account of the fact that whereas this is a Directive primarily addressed at tour operators, it is in effect in Gibraltar being applied to people who are almost exclusively travel agents. I think that no one in this House wants to transfer to traders on the Main Street liabilities which the European Community believes ought to be borne by the tour operators. If somebody fails to comply with the European requirement as to consumer protection in the three week holiday that they have sold in Tokyo, do we really want to make the Gibraltar travel agent liable in damages to the Gibraltar who buys the three week holiday in Tokyo? Do we want to make the Gibraltar travel agent responsible for that? Do we want to impose upon the Gibraltar travel agent bonding requirements? This is another area that the Minister has got to look at. As presently drafted the bonding requirement required of the Gibraltar travel agent relates to the value of the entire package, not to the value of the package that he has provided. So if one buys a £25,000 round the world cruise from one's local travel agent, the local travel agent has got to produce bonding and insurance to the value of £25,000; not to the value of the £129 that the flight to London costs which is the only thing that he has actually provided. So we have got to protect the local travel agent from the bonding, we have got to protect the local travel agent from the insurance requirements in respect of those elements of the package that he has not himself provided and then, of course, we have got to make sure that if any of these large companies do breach their obligations that the people who encourage our local consumers to sue are the package tour companies and not the local travel agent from whom he happened to buy the ticket. I think there is common ground between us on both sides of the House on this point. As to the question of the trust and the trust arrangements, as we understand the provisions, what it means is that if I go to a local travel agent and buy myself a £1,000 holiday to the Caribbean and I have to pay obviously the £1,000 before I go - I have not yet found a travel agent that will let one go and pay later, but still - and he has got to put that £1,000 in a trust until the contract has been performed. The contract is not performed until I have gone to the Caribbean and actually used the return flight because the contract will not finish being performed until I come back because my return flight forms part of the package under the contract. That requires

the local agent to be able to persuade the Caribbean tour operator to let me use his aeroplanes, to let me use his hotels before he has been paid because the local travel agent cannot release the money because it is stuck in this trust that the Minister is threatening to create. All I can tell the Minister is that it is going to be necessary for us all to go to La Linea to buy our package tours, not because we do not want to buy them in Gibraltar but because I do not think the local travel agents will be able to sell us package tours because none of their principals - none of the Thomsons, Cosmos, Kuoni - are going to allow local travel agents to sell packages to consumers for which the agent cannot forward the money to the tour operator basically until the consumer comes back and says, "I have had a great time, the hotel was fine, the meals were good and I am not going to sue anybody for it". The system will break down and I really do not think that in this House we can re-invent the wheels of commerce. We are all in favour of protecting the consumers from abuse, we have got to find ways of doing it but we must not put our small businesses out of business and really not stack up the odds against them as against our competitors who are only a stones throw away and could provide the same service without this handicap. I think, Mr Speaker, I do not want to sound any more critical of the Bill given the indication that Government have given that really their minds are open on it and I think we will wait to hear what amendments they consider, if any, appropriate to come back with in due course.

MR SPEAKER:

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

HON J E PILCHER:

Mr Speaker, most of the points raised by the Hon Mr Vasquez have been addressed, have been covered and there are areas which we are now seeking clarification and which, in fact, I did mention in my initial contribution that that is specifically why we were not proceeding with the Committee Stage and Third Reading of the Bill until a future meeting of the House of Assembly. However, I think it is true to say that both sides of the House know exactly what we want to do but, obviously, I cannot let the Leader of the Opposition get away with certain of the comments that he has made because he has been playing to the gallery and they are incorrect. The bonding structure, he knows quite well, is not related to the package, it is related to turnover. So a bond works related to the turnover so if a specific amount of money is received one obviously relate that to the turnover. The second point I would like to make which was made by the Hon Mr Vasquez, Mr Speaker,

is the one related to the Italian attitude. The Italian attitude is in no way related to the attitude of the Government of Gibraltar. We are a serious Government, Mr Speaker, who intend to put on our statute books whatever both sides agree and what the trade feels is what is good for Gibraltar in the protection of the client because it is the Opposition Members who spend their lives advising us of problems of consumer protection. Well, we have here an element of consumer protection and it might be a hammer or it might not, we in conjunction with the trade which is the most important thing will sort this out. I said at the beginning, the trust element of it is the least important of the lot. As I understood it, the trusts would work similar to how a lawyer's client account works where money is not intermingled with the flow of the business money but kept separate to be used for the purpose for which it was meant to be used. So if I deposit £x with a lawyer for the purchase of a property, the lawyer keeps it in his clients account and does not use it until it is ready to be moved for the purchase of the property. That is how, as I understand, it is supposed to work the trust and if due to drafting it is not doing that but going much further then we will correct that. We need to put in the legislation some form of bonding which perhaps may not have to be as onerous as this, Mr Speaker, and this is what we will take away and check. Coming back to the initial point, I said - this is why the Opposition Member was not correct - that, as I understand it, the package operator's - and I heard what the hon Member said because he did read the aspects of what constitutes a package - package created in Gibraltar would be the flight and the hotel which was booked from Gibraltar but not the onward package which is sold in the UK and therefore the agent here is acting as an agent of the UK and is being sold under the terms of the UK legislation. That is how I understand it but, Mr Speaker, I will go back and check this which is what I said initially.

Question put. 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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON J E PILCHER:

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

THE BIRTHS AND DEATHS REGISTRATION (AMENDMENT) ORDINANCE 1993

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. The object of this Bill is to make comparable provision in respect of the registration of births as those contained in the Ordinance for the notification of deaths and to thereby ensure that the registrar of Births can take steps to ensure that every birth occurring in Gibraltar, is registered. The new section 10 of this Ordinance enlarges the number of persons entitled to register the birth of the child without the father or mother of the child being dead or ill or absent. Persons can now register if they were present at the birth; or if they were the occupier of the house in which the child was born, or if he or she knew of the happening of the birth; or the person who has charge of the child can also register. Section 11 is amended so that the persons who are referred to in the new section 10, that is, fathers, mothers, persons present at the birth, occupiers of the house and persons having charge of the child, can be required to go to the Registry and sign on being given notification by the registrar. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, we in the Opposition were rather startled to learn that, in fact, there was no compulsion on the registration of a birth in Gibraltar or that, indeed, the registrar did not have the power to compel the registration of a birth in Gibraltar. To that extent we see nothing controversial in this Bill and would welcome the new provisions to the Registration Ordinance.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, I have nothing further to add.

Question put. Agreed to.

HON ATTORNEY-GENERAL:

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

THE COMMISSIONERS FOR OATHS (AMENDMENT) ORDINANCE 1993

HON ATTORNEY-GENERAL:

I have the honour to move that a Bill for an Ordinance to amend the Commissioners for Oaths Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. The object of this Bill is to amend the Commissioners for Oaths Ordinance and to make provisions now for applications for appointment as a Commissioner for Oaths to be made to the registrar as opposed to the Governor

and to make provision also in Gibraltar for the registration of public notaries practising in Gibraltar and for the annual registration of such persons. The Bill converts the penalties for offences relating to Commissioners for Oaths and Notaries from a pecuniary amount to a reference to a level on the standard scale and introduces the offence and related penalty of practising as a notary not having been registered. The Bill also makes a consequential amendment to the Interpretation and General Clauses Ordinance to provide for rectification of the Register of Commissioners for Oaths and public notaries which is dealt with in the new clause 8. I commend the Bill to the House.

MR SPEAKER:

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

HON P R CARUANA:

Mr Speaker, I start by addressing the last observation made by the Attorney-General when he says that the amendment to section 8 is consequential in that it allows to enable registers of notaries to be amended. It is a remark that which, frankly, we in the Opposition take serious umbrage. First of all, it is not consequential and, secondly, it is not limited to the register of notaries. There is nothing in this Bill which requires it or requires as a consequence of it, to legislate in terms of the proposed new section 8. Therefore where the heading says "Consequential amendment" we believe that that is straightforward, misleading drafting. The provisions of section 8 maybe something that the Government wants to do for other reasons, but it is not consequential on the preceding sections of the Ordinance. In other words, nothing in the preceding sections of the Ordinance requires, as a consequence of them and therefore is not consequential, that the power to amend registers should be given to a non-specified registrar in circumstances described in this section. Therefore it is not a consequential amendment at all. It is certainly not a power to amend only the register kept under this particular Ordinance. The AttorneyGeneral said that this was in order that the register of notaries could be amended. One of our objections to this Bill is that precisely under a Bill that seeks to regulate the registration of notaries, there is an attempt made to amend the Interpretation and General Clauses Ordinance in a general sense in relation to all registers kept under any Ordinance: the Register of Ships and the Register of Gibraltarians and the Register of Marriages, Births and Deaths and the Register of Companies and the Register of this and the Register of that. By virtue of this provision, of the Commissioners for Oaths (Amendment)

Ordinance, all public registers kept in Gibraltar under any Ordinance, as it says in the third word of that line, can now be amended in these circumstances and we think, as a matter of legislative practice, that the Interpretation and General Clauses Ordinance which is inherently an Ordinance of general application to all legislation should not be amended by the last clause of a Bill relating with a specific subject matter, namely, the Commissioners for Oaths (Amendment) Ordinance. I think that an Ordinance as primary as the Interpretation and General Clauses Ordinance should only be amended by legislation of equal importance either by an amendment to the Ordinance itself or as it has been in the past, by such things as the European Communities Ordinance and things of that kind. But certainly not by this. I have to say, Mr Speaker, that we have objections in principle, and I think I made these points when we were discussing the new shipping registration at the Second Reading. But it raises the question where it says in sub-clause (2), "The person charged under any Ordinance to maintain a register or index may correct or cause to be corrected any clerical error or obvious mistake in any register for which he is responsible". It raises the question of "obvious mistake" by whom? An obvious mistake by the person who has made the entry in the register is understandable. That is to say, if the clerk who makes entries into the public register makes a wrong entry accidentally then that is an obvious error. But an obvious error made by the supplier of information that eventually gets into the register.... for example, if I submit a document for registration and there is an error in that document and that error is transposed into the register, does this section permit the register to be amended when I go and say "I am sorry, I made an obvious mistake in my document, it should not have said this it should have said that. Please therefore amend it"? Of course, these are registers on which people search, people rely and therefore people have to know that information that they have gleaned from the register cannot subsequently but retrospectively be amended under the guise of "obvious mistake". Therefore, as I said at the time of the Shipping Registry, I would like this to be slightly more tightly worded to make it clear that it is "obvious mistake" by those who administer the register and not "obvious mistake" by those who provide the information to that purpose which he accurately then translates into the register.

Mr Speaker, I turn now to the principal purposes of the Bill. It was not immediately clear to us in the Opposition when we first read it, whether this was an attempt to usurp the functions of the Archbishop of Canterbury. In other words, whether this was an attempt to regulate the appointment of notaries locally as opposed to now, as Members of the House know, notaries public in Gibraltar are appointed still by the Archbishop of Canterbury who is responsible for their appointment and he sits at the top of the College of Notaries in the United Kingdom.

When we saw this piece of legislation which spoke of registration of notaries in Gibraltar, it was not clear to us whether what we were doing was, in effect, cutting the ties with that regime and setting up a regime for the local appointment of notaries so that from now on notaries in Gibraltar would be appointed by the registrar on terms and qualifications to be prescribed or whether all we were seeking to do was to create in Gibraltar a register of notaries appointed as they have always been appointed. And I would welcome from the Attorney-General when he is replying to me, if he could clarify just for the record, which of those two we are doing. In other words, are we just registering those people who have been authorised by the Archbishop of Canterbury to practice as notaries public in Gibraltar or are we saying that rather antiquated and colonial regime should be cut adrift and henceforth in Gibraltar we should appoint our own notaries public under this Ordinance and in this register on qualifications and on terms and conditions to be prescribed as the clause says. Mr Speaker, another point that I would wish to make, leaving to one side all minor points of correction and amendment which I will raise obviously at the Committee Stage, is that the regime appears to be one of annual reappointment and, of course, the importance of this point depends to a very large extent on what answer I get to the one that I have just posed because the clause in relation to registration of notaries says "Applications for re-registration as a notary public must be made in effect each year, by the 31st October". We have no objection whatsoever to the Government obviously raising revenue if the Government, as a matter of policy, wish to charge an annual fee licence fee perhaps - from notaries then that would be entirely a matter of policy for the Government and which we would not have a particularly strong view against. But to raise a licence fee is not the same as to require annual re-registration. In other words, it is very different for the law to say, "To practice as a notary in Gibraltar you must pay the annual fee of £5". That is very different to saying, "To practice as a notary in Gibraltar you need, in effect, the Government's permission every year". In other words, this is not an appointment for life, this is an annual appointment and one has got to be appointed every year, which is implicit in the concept of re-registration. We accept, in fact, we welcome any legislation that introduces a process of regulation on supervision of notaries and commissioners for oaths to ensure that standards are maintained in a way that does not bring Gibraltar into disrepute. But, of course, as in everything that is regulated by law, in order to be able to de-register somebody for misbehaving, we do not have to make them liable to annual re-registration. We do not, in principle support a regime that requires practitioners, whether they be lawyers, accountants, notaries, dentists, doctors from needing, in effect, the Government's permission every year to carry on their business. Therefore, in the absence of cogent

argument as to why this is necessary, which I look forward to hearing in a moment, we do not see why there ought to be a regime of annual re-registrations as opposed to a regime of annual licence fees, if that is what is required and a regime of supervision with power to the registrar to de-register. In other words, to cancel somebody's appointment if they misbehave. A final point that I would make, Mr Speaker, at this stage on the general principles, of course, is that we do not know who the registrar is going to be and many of the issues that I am touching upon to a great extent are affected by who the registrar is proposed and if the Government could give us an indication of their intention as to who the registrar is going to be we would welcome it.

HON F VASQUEZ:

Mr Speaker, there are just one or two comments I would want to make in support of the Leader of the Opposition's arguments. The first is this, it is reference to the registrar, the Bill refers to various duties to be carried out by the registrar and, in fact, that terminology is taken from the principal Ordinance which also refers to the registrar without identifying or in any way clarifying who that is. One assumes and, in fact, I have not checked the Interpretation and General Clauses Ordinance, it may well be that under that Ordinance it provides a reference to the registrar as being the Registrar of the Supreme Court, I do not know, but certainly it might help this Bill if that was clarified. If it is, indeed, the Registrar of the Supreme Court, that the Bill should make clear that any reference to the registrar is to the Registrar of the Supreme Court.

Turning briefly to the question of the registration of public notaries. Section 7(2) as amended by this Bill, will read, "The Registrar shall register a person having the prescribed qualifications and having provided the prescribed information as a Public Notary". Just in confirmation of what the my hon Friend Mr Caruana has already said, it is not immediately clear to us whether that means that the registrar is simply going to ask existing notaries to prove that they are notaries and therefore register them or whether the registrar is going to reserve to himself the right, upon proving the prescribed qualifications, to appoint new notaries. It may well be that no one has given this matter any thought. If that is the case, I would want to throw this into the ring, Mr Speaker. I would be useful to consider the history over the last 10 years of the practice of notaries public in Gibraltar. Until the opening of the frontier there were actually only one or two public notaries practising in this jurisdiction. In 1985 the frontier opened and there was a fantastic rush of work because all of a sudden there was an enormous demand for notarisation of documents to

be used in other jurisdictions from Gibraltar. Not surprisingly the legal profession soon latched onto this and a number of local legal practitioners applied to become notaries public. All that required was a letter to the Faculty of Notaries administered by the Archbishop of Canterbury enclosing 30 testimonials from local lawyers and businessmen certifying that the applicant was a fit and proper person, that is all. No examination, nothing of the sort, just a letter and a number of local lawyers simply got off their application, sent them off, got their 30 signatures and effectively became notaries public and they soon cornered the market. Around 1987 it would appear that they realised they were on to a good thing and they got in touch with the Faculty of Notaries at the Archbishop of Canterbury's Office and said, "We have now formed an Association of Notaries in Gibraltar. We would be grateful if in future anybody who applies to become a notary was to be vetted through ourselves". And, not surprisingly, the Faculty Office said, "Yes, why not. If you are the Association of Notaries in Gibraltar we shall make it a requirement that anyone who is applying to become a notary must put the application through the Association of Notaries in Gibraltar". That was in 1987. It may come as no surprise to this House that since 1987 there have been no further notaries appointed in Gibraltar and, effectively..[Interruption] yes. There is a nice little trade in this sort of work. So I see that clause 7, we now have for the first time a register of notaries. I put it to the Government that they may want to consider taking upon themselves the whole matter of appointment of notaries to practice in Gibraltar. The fact is that until 1989 or 1990 all that was required to practice as a public notary was to get this leave from the Faculty Office in Canterbury and all they asked for was a letter with 30 testimonials. It now appears that subsequently, more recently in the last two or three years, there has been an examination introduced which anyone wishing to practice as a notary public now has to pass. That is a more recent development and the fact is that we in the Opposition see no reason why the Government should not put its own framework into place to administer the offices and the practice of public notaries and the qualification of public notaries in Gibraltar. We do it for commissioners for oaths and there is no reason, in our view, why this should not also be done for public notaries and we would urge the Government to take this matter in hand.

HON CHIEF MINISTER:

Mr Speaker, I was not aware of the latest episode that the hon Member has brought to the attention of the House and I am grateful to him for it because I think it is certainly something that needs to be addressed if, indeed, some association was created in 1987 which has virtually made sure that nobody else can ever get into the business.

I thought the whole episode of the Archbishop of Canterbury was something that the Leader of the Opposition was inventing tongue in cheek but obviously it is serious and although I am not embarking on a state/church debate, we were originally looking at this with the far less ambitious aims of simply having some system because nobody was able to explain to me very clearly how notaries public were born or how they died. They just seemed to be there like old soldiers and I thought that since we have got other areas where people have to register and if they are in business they must demonstrate that they are still operational, one of the main ideas of having people annually registering is simply a reflection of something like what we do with trade licensing where people have to renew their ability to trade on an annual basis and demonstrate that they are actually practising and using the licence rather than simply giving the impression because they have been there for a very long time, that we have got, in looking at the capacity to handle business, we might feel that there are 20 people and there may only be two or three or four or five who are active and the rest are not active so they would not want to keep on re-registering or getting re-licensed or whatever we choose to call it. We did not think it required anything more than just keeping a record of who was practising and making sure that that record was up-to-date. I think the points that have been raised by Opposition Members mean we will want to take a closer look at the system in the light of what has been said.

As regards the consequential amendment, we could have simply brought a one clause Bill amending the Interpretation and General Clauses Ordinance and we would have done exactly the same thing as we have done there. In fact, I raised the question, when the Bill was going for drafting, "What happens if somebody in compiling the register makes a mistake? How is that dealt with?" And having looked at putting something in this Ordinance for this register it was looked into in the context of other registers and I was told, "Nobody seems ever to have thought of making provision for this in any other register". It would appear that what we are doing here, which we could have done by bringing a one clause Bill, we could have simply made the provision in this Ordinance for these registers and then change the Interpretation and General Clauses Ordinance by bringing an amending Ordinance to that law. But it is not the first time that we have done something to another law at the same time as we are doing it in one. We have done it to the Interpretation and General Clauses Ordinance in a similar fashion. Of course, if Opposition Members do not like it then they vote against it but we have done it before, we think it is a good way of doing it and we see no reason why we should not do it because it would not make any difference except that we would just have two bits of green paper instead of one bit of green paper with half a page more on it saying the same thing. [HON P R CARUANA: Except we cannot find it.] Well, the hon Member

is correct in that particular concern and we have promised action on that, which has not yet materialised, but I think we are now closer to producing something which will be capable of being accessed electronically and up-to-date and then that will deal with that particular problem. I take the point that the hon Member has made in the second bit of clause 8A(2) about whether we might need to look again at the wording of that between now and the Committee Stage to make sure that what we mean is that if somebody inputs the thing incorrectly and, particularly if we have got things that are electronic and are being transposed from paper into memory, then the realisation of that mistake should be capable of being corrected without any further ado. It is different where the information that has been supplied is incorrect, then I think that information has to go in as supplied, I would have thought, and therefore if the user of the system then realises a mistake then presumably the user has to go along and put in an amending application. That is how we intend it should work but I will ask people to look at it again to make sure that it is only capable of that interpretation and not any other one.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, I did not really think that this was going to be so very controversial. I take the point that was made about the Archbishop and I have listened very carefully to what the Chief Minister has said. I am not a notary public. I am not quite sure how one becomes one. I think in England one only becomes a notary public if one is articulated to a notary but that seems to be a different here. situation here. But if the rules have always been that one has to have the official stamp of the primate, then I guess that the intention here is not to change those rules and we thought, Mr Speaker, that this was, as I said, uncontroversial and merely keeping a register of commissioners for oaths and joining into that by way of a separate register, a register for notaries public. I do not know what the rules are here, Mr Speaker, but my hon Friends can tell me and it is not a question of ignorance because I have not had to look it up. In England one has to apply, I think it is on the 31st October every year for what we call an annual practising certificate and no one is suggesting in the British jurisdiction that one has to be relooked at if one wants to be a solicitor. One is merely filling in a form to say, "I am still alive, I have not gone bankrupt".

HON F VASQUEZ:

If the hon Member would give way, Mr Speaker. The point is this, and I am just really supporting the comments that the Leader of the Opposition made. One needs a practice certificate in the United Kingdom but in the United Kingdom it is the Law Society which is the statutory body entrusted with the administration of the profession which grants that certificate. What we fear is that in Gibraltar it will be the Government of Gibraltar, the executive arm of Government were to be tasked with handing out the certificates, that is an entirely different concept. I am grateful.

HON ATTORNEY-GENERAL:

As I understand it, every person who practises law in Gibraltar is either a member of the Bar or a solicitor qualified under English law and I do not think it would be possible for a person to be disbarred or struck-off the role of solicitors by the Government unless, of course, there was an application for disbarment. This Ordinance was intended merely to be, as the Chief Minister said, for the Government to keep a register of commissioners for oaths and notaries public and for them to re-apply every year. It makes, in my submission, sense because since I have been here there must have been 10 or 12 new persons who have been admitted as practitioners in law, either as solicitors or barristers, and unless someone keeps a bit of paper which we can call by a different expression a register, one would not know how many there were. As far as the consequential amendment is concerned, the Leader of the Opposition is so disgusted that he has walked out, in fact, I am only going to support what the Chief Minister has said that - oh he has come back - it is merely providing by one bit of paper instead of two bits of paper that the register can be rectified. I take the point made by everybody in clause 8A(2). But that, I would have thought, was looked at as the Chief Minister said, altering what is clearly a clerical error or obvious mistake. If somebody prints 1893 instead of 1993 then that does not require rushing off to the Convent to get the Governor's permission to file a statutory declaration to alter that.

Question put. On a vote being taken the following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon Miss M I Montegriffo
The Hon J L Moss
The Hon J C Perez
The Hon J Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon F Vasquez

The following hon Members were absent from the Chamber:

The Hon M A Feetham
The Hon J E Pilcher
The Hon L H Francis
The Hon M Ramagge

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

THE IMPORTS AND EXPORTS (AMENDMENT) (NO. 2) BILL 1993

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. This is a sensible Bill, in our submission and, Mr Speaker, I am going to be very careful in what I say because, in fact, what we are talking about in the trade are people who secrete drugs on their person and this Bill is allowing for intimate body searches in some circumstances. The Bill is also allowing for persons who are suspected of having consumed dangerous drugs to be kept for a period of time by the Customs Department and the time, I think is being dealt with, as 96 hours. Presumably everybody in this House would know why we have chosen 96 hours and I think, in the Bible, it is referred to in one stage as 'it will come to pass'. The situation is that I would hope, Mr Speaker, that this is an uncontroversial Bill. It is directed at giving more powers in the constant fight against drugs to which we recently heard that the Chief Minister is totally committed as,

indeed, we all are. The protections here are that orders can only be given by Customs Officers of at least the rank of Customs Surveyor, there has got to be reasonable grounds, matters have got to be reduced to writing. If a person has his body searched one has to record which bit of the body is being searched - I would not have thought that there are too many orifices which can be investigated. Hopefully, it will be a constant fight against drugs, as I have said. I commend the Bill to the House.

MR SPEAKER:

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

HON H CORBY:

Mr Speaker, I would like to deal with the 'Amendment to section 8(4)' and with regards to the verbal instructions there is a danger here that this practice can lead to a junior member of the Customs Department taking unto himself responsibilities for the internal search by obtaining oral instructions. We, in the Opposition, think that as part of the surveyor's duty, especially in Gibraltar where he can be contacted very easily and available to present himself whenever this is necessary because the time element factor is a negative one; written authorisation is always a better way of doing things. It makes it a more official and an effective means of implementing the law. So we think that as far as 'oral' is concerned, sub-section (4) says, "he shall confirm it in writing as soon as is practicable". We think that the Customs Surveyor must be present to give written instructions. Maybe a printed form could be available for him to sign there and then expediting the case. I will refer again, Mr Speaker, to 'Amendment to section 8(7)'. I cannot understand how a person cannot be told the reason for the seizure and who, in this case, determines when a person is likely to become violent or incapable of understanding what the seizure is all about. Again, I would like to compare this with the police arrest in which no matter how violent or incapable of understanding the person may be, he is still read his rights. In this case I am going to suggest, at the Committee Stage, an amendment to insert after the words, "from whom it is seized shall be" the words "informed in writing immediately of the reason for the seizure". That I will bring up at the Committee Stage, Mr Speaker. On 'Amendment to section 9(3)', we are of the opinion that the person shall be kept in custody of Customs Officers for a period not exceeding 96 hours; this should be done and nobody should be held for 96 hours without a Court Order. Although, Mr Speaker, we support the principle of giving Customs Officers more powers in the fight against drugs, to which we are all committed here in the House, we require these amendments to be made in order that we can support the Bill. If they are not then we will abstain on it.

HON P R CARUANA:

Mr Speaker, even legislation which is for reasons that we all support has got to be good legislation and the fact that we support the ultimate aim of the legislation does not mean that we can turn a blind eye to some of the wider principles that the law seeks to protect citizens from. For example, whereas we all support the role that the police serves in a community in law enforcement, we nevertheless consider it appropriate to protect the citizens from even isolating cases of abuse of police powers by prohibiting the police from keeping somebody in detention for more than 24 hours without bringing him before a Court for, in effect, for a custody order. There are some exceptions to that under the Prevention of Terrorism legislation. But the general principle of the law is that if the police wish to detain someone, usually it is 24 hours, in some instances they have got to bring him to the Magistrate as soon as practicable but, effect, what happens is that no one is kept in detention for more than 24 hours before being brought before a Magistrate and of course then the Magistrate may make an order authorising that person to be detained in custody. We think that the same principle as applies to the police, Mr Speaker, should be extended to the customs. In other words, that the customs should not have powers of detention that are not, in principle and in practice, indeed, enjoyed by the police which is not to say that it would deprive the section of any strength or purpose. In other words, it would in no way prevent the purpose for which the section is required which is, incidentally, a purpose that we entirely support, that the Customs Officer should bring the person before a Magistrate and have the Magistrate order the period in detention rather than as a simple administrative act by the customs themselves which, incidentally, is not a power enjoyed by the police. There is another thing achieved by this Bill the Attorney-General has not covered in his brief summary of it. That is that the effect of substituting the existing sub-section (2) which is, in effect, to extend the power of the customs throughout the territory of Gibraltar which, again, is something we do not object to but let the record show that we are aware that that is what we are doing. Section 8(2), as presently drafted, in effect, gives the Customs Officers powers at points of entry and at points of exits and just before one is about to board and just after getting off an aeroplane. The effect of doing away with that and replacing it with the sub-section (2) that in effect does not refer to areas of town, so to speak, means that the customs enjoy these powers throughout the whole of Gibraltar as, indeed, we think that they should. If the customs find somebody in the middle of Main Street who they have reason to suspect, there is no reason why they should not exercise powers that this House feels that customs should have. There is no reason that they should exercise it when somebody gets off an aeroplane but not somebody who they find on Main

Street. I think it is just as well to record that that is also an amendment being introduced by this Ordinance. Mr Speaker, I think added to the comments made by my hon Friend, Mr Corby that concludes our observations on this piece of legislation.

HON CHIEF MINISTER:

Mr Speaker, we are not prepared to accept the amendments proposed so therefore the Opposition will have to abstain. As far as we are concerned, we do not normally depart from safeguards but we do when it comes to drugs. We have done it previously in the area of putting the onus of responsibility on somebody convicted of drug trafficking to prove that this assets have not been obtained by getting the money from drug trafficking and normally people under the British legal system do not have to prove their innocence, normally somebody else has to prove their guilt. In the case of drugs we take a tougher line. These are the powers that the professionals say they need, they feel that they need to be able to act quickly on suspicion and on the spot and we are giving them the weapons that they are asking us to give them and we will stand by that politically.

HON F VASQUEZ:

Mr Speaker, just a short interjection really to underline the objections. I think as a principal objection from the Opposition to this piece of legislation. I have heard what the Chief Minister has said about the Government's concern to combat the drugs trade and it is something that every Member of this House is completely in agreement with. Obviously every step this House can take to combat this social ill is something that has the entire support of this House. But nevertheless, that is not to say that we must drop our guard from allowing to pass under our noses pieces of legislation which may have the effect of infringing civil liberties. The point is simply this, I for my own part and I think I am speaking on behalf of all Opposition Members, cannot understand what particular mischief the amendment to section 9 of the Ordinance is addressing itself to. This is the amendment to the principal Ordinance which allows a Customs Surveyor to detain an individual for up to 96 hours, that is four days. A Customs Surveyor, a civil servant, having greater powers than a Police Officer in Gibraltar. Obviously the reference to 96 hours, as the Attorney-General has mentioned, is the reference to the time that the medical practitioner presumably has advised Government is necessary for the passage of a foreign body through a human body. That may be the case. I am not aware, Mr Speaker, of any incident in which a police investigation has been prejudiced by the lack of this power. If a Police or Customs Officer

has reasonable grounds to suspect that somebody who has entered Gibraltar is carrying in his person a prescribed substance, all they have to do is take that person to the Magistrates' Court and say, "We have reasonable cause to suspect that this man, for whatever reason, has come into Gibraltar and has in his person a prescribed substance" and the Magistrate, if he can be convinced of those reasonable grounds, will effectively make an order limiting that person's liberty. That person will be detained in custody for a period of seven days until either the police is convinced there is nothing inside him or that that foreign body passes through. There is no requirement in law, no need and no mischief to be addressed which requires a civil servant to have the power at his discretion to detain somebody in custody, not in police custody, but in the custody of Customs Officers for four entire days, far greater powers than even the police have in Gibraltar and for that reason we cannot support the policy of this Bill.

HON P CUMMING:

Mr Speaker, the Chief Minister has said that normally the Government is very keen on safeguards but not in the case of drugs. This is the whole point here that we have to be sure that it is a case of drugs and if it is definitely we have got to hit them with everything that is necessary. Here we are talking about protecting an innocent person from innocent use of excessive powers, that the person will have speedy access to a Magistrate and be able to say, "There are not reasonable grounds, I am innocent" and speak up for himself and so be set free and not have to be put in prison for four days, subjected to body searches outside in the parameters of the court by Customs Officers. This seems extremely excessive. They can still have the powers but through the Magistrate.

MR SPEAKER:

If no other hon Member wishes to speak I will call on the Attorney-General to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I do not want to appear to be pedantic or to be too positive and this is not meant to try and tell the Hon Mr Vasquez the situation in other jurisdictions. But it is very well known, in fact, in the common law, that Customs Officers have always had powers greatly exceeding any Police Officer and that certainly is, without doubt, in the United Kingdom. They could do things that really upset the most high-powered squads of New Scotland Yard. They can do all sorts of things under their ancient powers

because they were collectors of money for kings and queens for a few hundred years. I do not need to say more about that. They have vast powers in England I do not think it is of any significance at all to say but in Gibraltar a Customs Officer has got more power than a Police Officer. Well, he has not but he has for this purpose because when I was discussing this matter with the Chief Minister and someone mentioned "Well, if normally a person is arrested and is suspected of having drugs in his body, why should he be kept by the customs and not handed to the police? Or why should the police not have the same powers?" It is perfectly obvious that persons do not normally run up and down Main Street swallowing condoms containing cocaine. They might, in fact, try and hide a small piece of cannabis in their mouth, that is called obstruction under the Misuse of Drugs Ordinance, that is dealt with universally. But this is directed at importers who carry drugs or who are thought to carry drugs in their body. And to answer the hon Member who thought that everybody should have his rights read, if he looked at yesterday's paper - and I am not trying to score - he would have seen that a person who was at an airport, I believe in London, suddenly went into convulsions and died on the spot because, in fact, he was carrying internally several condoms containing cocaine and they broke and of course he died. I do not want to score. One cannot give a person his rights, all one can give him is his last rites.

HON H CORBY:

If the hon Member will give way. That is all very well for the Attorney-General to say and end this on a joke, which it is not. Drugs is not a joke, it is a very deadly and serious thing. Let me say that he still has not addressed why the 96 hours and it cannot be taken to the Magistrate and be dealt with in that way?

HON ATTORNEY-GENERAL:

The Chief Minister has dealt with this. This is a policy matter. The advice that persons have in the fight against drugs is not contained only in the jurisdiction of Gibraltar. We are given information, we are given advice, we are given feedback from literally all over the world in an attempt to fight what is really a global problem and if the policy decision of the Government is that a person suspected of consuming dangerous drugs has them in his body then he will be kept for 96 hours and if he does not like it then he can do two things: he can either lump it or he can apply for habeas corpus.

HON P R CARUANA:

No he cannot. Will the hon Attorney-General give way?

MR SPEAKER:

Order, order, order. I am afraid the Leader of the Opposition has had his say. If the Attorney-General wants to give way. Yes, he has given way.

HON P R CARUANA:

That is what I was asking for, Mr Speaker. I cannot explain Mr Speaker's urgency in that, that is exactly what I asked the Attorney-General, whether he would give way. I am extraordinarily surprised at that last remark. He cannot ask for habeas corpus and that is precisely the reason why this ought not to be legislated in this way. One cannot apply for habeas corpus to secure one's release from a detention which is lawful and this would be lawful. Provided that there is reasonable ground, that is all. One is in the slammer for 96 days before one has been anywhere near a Magistrate. I would ask the Attorney-General to address himself to that point. All the Customs Officer has to be satisfied of is that he has to have a reasonable suspicion, not the Court. He has to have a reasonable suspicion that the person is secreting drugs. In those circumstances the detention is lawful and habeas corpus simply does not apply. In that respect that is precisely why we ask that it is the Court, and not the Customs Officer, that decides whether there ought to be detention for 96 hours. Finally, if the Attorney-General would just address this point, and I am grateful to him for having given me way and given me the opportunity to ask, presumably, important as we think the fight against drugs are, we are not going to throw all caution out of the window. Are we saying that the fight against drugs is important but the fight against rapes and murders are not? Because I think that the fight against rapes and murders are very important, just as important as the fight against drugs but it does not mean that we give the policeman the right to keep people locked up for 96 hours without the permission of the court.

HON ATTORNEY-GENERAL:

That really is playing the old lawyer, Mr Speaker. What, in fact....[HON P R CARUANA: Is that not what the hon Member has been doing all morning?] What, in fact, the Leader of the Opposition wants me to say is we do not think murder and rape is important. Well I am not going to say that because it is a silly thing to say. We always end up squabbling. It is a silly thing to say, Mr Speaker, because one cannot say because we are directing a fight against drugs that we do not think murder and rape and arson and pillage and everything else is important. Of course it is important, we know that. But, in fact, the hon Member is wrong about whether in fact a person has rights because he can only be detained for 96 hours if

the Customs Surveyor - that is his rank - has a reasonable suspicion that he has taken drugs. All he has to do is apply for a prerogative writ, judicially review the reasonable suspicion of the Customs Surveyor: go straight to the Court. [HON P R CARUANA: It takes a month.]

MR SPEAKER:

Order, order.

HON ATTORNEY-GENERAL:

If the hon Member wants to speak, speak. It does not take a month. We all know, certainly in the Government because we are still paying for it, how easy it is to go to Appeal Courts and every other court in another case which has just left our jurisdiction. They can go to court like that, at a drop of a hat. The courts are open to all, like the Ritz Hotel.

MR SPEAKER:

If the Opposition want to pursue that matter they can introduce an amendment at the Committee Stage.

Question put. 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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE 1993

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The general principle of this particular Bill, Mr Speaker, I think could be described briefly, for the avoidance of doubt, that is to say, it is a technical change. In 1988 the Government introduced and the House passed an amendment to the Public Health Ordinance which had the effect of passing on to the owner of property the liability for payment of general rates in circumstances where the occupier, on whom the liability would normally lie, did not pay. Also in that year, I think it was, Mr Speaker, the Government passed legislation which had the effect of repealing earlier legislation passed by the previous administration which had actually removed the penalty payments for non-payment of rates. So in 1988 the Government reintroduced the penalty payment. The point of the Bill, Mr Speaker, to which I am now coming, is that there is a doubt as to whether the amendment in 1988 and, indeed, also the liability to payment of penalties, apply in respect of the salt water rate and that briefly, Mr Speaker, is the purpose of the amendment in the Bill before the House today. For the avoidance of doubt to make it clear that it is applying, not just to the general rates but also to the salt water rate. Mr Speaker, I hope that this explanation commends itself to the House and I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, we in the Opposition are well aware as to why Government seek to pass this Bill and we are exactly aware of the judicial doubt that has arisen as to whether Government can levy under section 272A these salt water rates and penalty arrears, etc. The fact is, Mr Speaker, that we are opposed to the policy underlying section 272A

and obviously we have to oppose this Bill as well. I want to briefly explain why for the record, Mr Speaker. It is very clear that the Government, since 1988, has made two fundamental changes in our rating laws, since it first came into power. Very shortly after it was elected in 1988, it enacted this section 272A which for the first time made owners liable for rates which were unpaid by the tenant and that was not long afterwards followed by the amendment to the Public Health Ordinance in 1990, the amendment to sub-sections 273(3) and 273(6) which made owners, again for the first time, liable for rates even in respect of empty commercial premises that they were making active attempts to let, ie premises which commercially were of questionable value. Those two developments in Gibraltar have coincided with what we now see has been a significant downturn in economic activity in Gibraltar. The fact is we are going through a difficult period economically. The value of commercial property has dropped; tenants are defaulting on their rent and the effect of these amendments to the Public Health Ordinance are to make rates a tax on the ownership of property. Historically, Mr Speaker, that is something that rates were never designed to be. Historically, rates in Gibraltar, as in municipal authorities in Great Britain, were charged by the City Council to defray the expense of the provision of municipal services in Gibraltar such as sewers, water mains, etc. They were a levy, Mr Speaker, and historically they continue to be in England and they always were in Gibraltar, a levy on the occupation of property. Under this administration, and insidiously, rates are no longer a levy on the occupation of property, they have become a tax on the ownership of property, something they were never designed to be. A landlord, especially, Mr Speaker, in the circumstances of the present economic climate in Gibraltar, as a result of the policy of the Government, now finds himself owning a property which he may not be able to let because, as we see, there has been a disastrous downturn in demand for commercial properties, certainly in the old part of town. We have seen at least one case where a landlord has been left on the lurch owing tens of thousands of pounds to the rating authority because the tenant has not been paying his rates and has not communicated his failure to pay rates to the landlord. For these reasons we consider that the rating system in Gibraltar, as presently operated, constitutes a pernicious tax on property which frequently works exceedingly unfairly against the owners of commercial property which often is of questionable commercial value. It is to be noted, for example, Mr Speaker, that the provisions of section 272A do not apply to the Crown. So whereas a private landlord, if his tenant defaults on rates, becomes liable to the rates payable by the tenant but the same does not apply in the case of the Crown. Mr Speaker, we in the Opposition are opposed to the policy of section 272A. We are opposed to the change in the whole rating system to make it, in effect, a tax on property and as a result we cannot support the measures being taken to make section 272A work more clearly and more effectively.

HON CHIEF MINISTER:

Mr Speaker, of course the Opposition Member has not been talking about the general principles of the Bill before us because the general principle of the Bill before us is to correct the wording of the sections in question which were passed by this House before the Opposition Member was a Member of this House and, of course, the hon Member can be against every piece of legislation that has been passed in the House of Assembly since the 1969 Constitution came into effect but he did not have a say in the matter because he did not stand for election in 1988 and he was not here. Therefore that was debated in 1988 and that was passed in 1988 and that was published in 1988 and therefore there was nothing insidious or pernicious about it except that obviously every contribution by the Opposition Member is insidious and pernicious. I suppose by analogy, since that is the subject matter which he chose to speak on this occasion, then it must be insidious and pernicious. What we are bringing to the House is an amendment because somebody has questioned, like he has done today in a number of other areas, whether the wording of a particular section provides an accurate reflection of the policy of the majority of the House. Since we are not sure whether that questioning is valid, for the avoidance of doubt, as the Financial and Development Secretary has said, what we are doing now is changing the wording so that there is no doubt that the policy which we implemented in 1988 is the policy we want to see translated in the laws of Gibraltar and we are not debating the wisdom of that policy because we debated that in 1988 and we won the debate. We had that view when we were sitting in the Opposition benches and we proposed similar provisions from the Opposition to the previous Government. We were unable to persuade them and therefore we had to wait till we were the Government to do it and the Opposition Member will have to wait till he is a Member of the Government, if he is ever going to be able to do anything about it. Because the answer is that we certainly understand why he feels the way he does but he should have stood for election in 1988 in order to put the arguments then because this is not introducing anything new, it is not making any changes to the rates, it is simply ensuring that the policy defended from the Opposition prior to 1988 and from the Government since 1988 is the law of Gibraltar because that is what parliaments do. Parliaments legislate what the majority in parliament wishes, not what the minority in the Opposition wishes and we wished it before and we had to wait and we did it in 1988. Therefore he has got no right, Mr Speaker, to come along in 1993 and start re-opening a debate which was won in 1988.

HON P R CARUANA:

Mr Speaker, with the greatest of respect to the Chief Minister I cannot say that I agree with his analysis that this House is not at liberty on the occasion offered it by the hon Members themselves in bringing this Bill to the House to consider the matters of principle that arise from the Bill that they now, not in 1988, bring to this House, presumably because they were not careful enough in drafting their legislation in 1988. Certainly whether the need for the legislation is simply to clarify or to correct a mistake, the fact is that it is before us and it gives us a legitimate opportunity to consider the policy that won the day in 1988 in the light of subsequent events.

Mr Speaker, I only have two points that I want to make in relation to this. The legislation introduced by the Government utilising their parliamentary majority in 1988, as they will no doubt use it now again, has operated injustice in two respects. Mr Speaker, prudent landlords in the light of that legislation, ought now to make themselves responsible for the rates. What they ought to be saying to tenants is, "This is your rent inclusive of rates" because as he is liable for them anyway, rather than allow the bill to mount up what the landlord should say is, "I let you my premises and the rent is so many pounds per month inclusive of rates". That way the landlord is sure that the tenant is, in effect, paying the rates and not leaving the landlord saddled with the bill. But that operates injustice in the case of domestic protected tenancies because the landlord is not at liberty to increase the rent to include the element of rates. So therefore in the question of such tenancies, the landlord is literally at the mercy of the tenant. So that is one area where the Government might like to consider ameliorating the effect of this by in effect giving landlords the ability to protect themselves against adverse consequences of the law. Mr Speaker, the second is this, and I say it in relation perhaps only to rates on salt water and the penalties thereon because as far as the general rate is concerned, the Chief Minister is quite right, the general rate is not in front of the House in this Bill, what is in front of the House is the salt water rate and the penalty. I make the point therefore in respect of salt water rate and penalty but the Government should understand that it applies with equal vigour to the general rate and that is this; that there has to be a degree of care in how this law is implemented given that the landlord is ignorant of this liability. I can give Government Members an example which I think will appeal even to them. A situation in which a landlord had a tenant who left in 1987 and when the tenant left he owed the Government £800 or £900 in rates. The tenant went away from Gibraltar in 1987 and the landlord re-let the premises and the new tenant has faithfully paid rates ever since. Unknown to the landlord, penalties have been accruing on the £1000 that was due

in 1987, between 1987 and 1993 and now the question arises, is the landlord going to be made responsible for the £11,000 compound penalty - not rates - that has been accruing without his knowledge, since 1987 in respect of something that was owed by a tenant at that time? Mr Speaker, that is why we say that whilst the hon Members are entitled to legislate whatever legislation they wish using their parliamentary majority, that the law must provide protection for people who become innocent victims of it in circumstances where a reasonable administration would not heed to burden the citizen with the ordinary consequences of the law. Therefore, Mr Speaker, it is for reasons such as that, that the Opposition consider that this law operates too onerously on property owners and for that reason do not support it. If the law were amended to protect the landlord from some of the more unfair applications of the law, then the Opposition might be able to take a different view.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I shall not intervene.

Question put. On a vote being taken the following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The following hon Members were absent from the Chamber:

The Hon M A Feetham
The Hon Lt-Col E M Britto

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

THE EUROPEAN ECONOMIC INTEREST GROUPING ORDINANCE 1993

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to give effect in Gibraltar to Council Directive (EEC) No. 2137/85 on the European Economic Interest Grouping be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the provision that we are making in this Ordinance is one which allows an entity to be created out of bodies that exist in more than one member State and therefore it is not limited to the company structure but it is capable of being used in respect of bodies that have got corporate identity without necessarily being incorporated under the Companies Ordinance in Gibraltar or under the comparable legislation in other parts of the EEC. We are, in fact, following very closely what is provided in the Directive in transposing it into the national law of Gibraltar and we are, on this occasion again, moving much more rapidly than other member States. We do not know whether it is an area that will generate new business but what we want to do is to make sure that we have the vehicle available if there are people interested in making use of it. If it is available here before it is available elsewhere, then we have got a better chance of attracting the business to Gibraltar. The one omission, really is that it does not operate between ourselves and the UK for the reasons we have already gone into about whether we are in or whether we are out when we come to the UK. So we have tested this out with people in London and they said it would require, if there was a UK element

and a Gibraltar element, a third element in another member State to come under the definition of having to be in at least two member States. Obviously it does not mean that it cannot be in more than two but if it is just us and UK it counts as one. I therefore commend the Bill to the House.

MR SPEAKER:

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

HON P R CARUANA:

Mr Speaker, the Opposition support the Bill. Hon Members may be interested in a brief explanation as to what this animal actually is that is being created. It is calculated, Mr Speaker, to break down some of the practical barriers that exist to business people from doing business in another Community country arising from a different culture or a different legal system. For example, if there is a firm of lawyers in Gibraltar and a firm of lawyers in France and a firm of lawyers in Denmark or shoe manufacturers in each of these countries, and they want to form themselves into an association to market their products or to organise their retailing activities, they form this sort of association. But an important characteristic of this association is that one does not actually carry on the trade through it, the trade continues to be carried out by the Gibraltar member of the association in Gibraltar or in France, by the Dutch member, by the Danish member and by the Greek member. This is an umbrella organisation that binds them in a sort of association through which they can channel their common expenditure but it is not the vehicle through which they carry out the business. So they would still carry on the business in their separate legal entity's names that form the association. Mr Speaker, I think that there is scope for this if Gibraltar can set this mechanism up quickly. I think there is scope for the establishment of Gibraltar as an offshore centre in which organisations of this kind can be established and perhaps I think these things are so little known in the European Community that we might mark it and pioneer it. I have nothing to say on the principles except this, Mr Speaker, and ordinarily I would have raised it at the Committee Stage but in order to give Government Members maximum time to consider the point, it refers really to section 10 which deals with the name that these European Economic Interest Groupings can have because they have names and registered offices. Whilst they cannot use the word "limited", "unlimited" or "public limited company", I was surprised that there was not also a restriction on using names that are otherwise restrictive. For example, there are certain words which companies cannot use in

Gibraltar such as "bank", "trust", "sovereign", "royal". There are a number of words that require special permission and I think it would be an anomaly if a European Economic Interest Grouping registered in Gibraltar was free to use all these words which are registered and which could connect them with Gibraltar and I think that this is something that we ought to consider. I have read the regulations; I do not think there is anything in the regulations that impinges on this legislature's right to restrict the use of certain words in the matter of the public interest and I would commend to the Government to consider whether they think that that can be done whilst faithfully re-legislating the regulations.

MR SPEAKER:

If no other hon Member wish to speak I will call on the Chief Minister to reply.

HON CHIEF MINISTER:

All I will say, Mr Speaker, is that I will check that particular point to see if we can do it at the Committee Stage.

Question put. Agreed to.

HON CHIEF MINISTER:

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

THE SOCIAL SECURITY (INSURANCE) (AMENDMENT) (NO. 2)
ORDINANCE 1993

HON R MOR:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Insurance) Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON R MOR:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, in the last meeting of the House, I did say that at this meeting we would be bringing legislation in connection with the dissolution of the Social Insurance Pensions Fund by the end of the year. I think it is appropriate, Mr Speaker, to go over the historical background of the Pensions Fund once again so that we can look at the events which have led to the introduction of this Bill. Perhaps it may best be appropriate and of interest to, very briefly, go over some details of the Pensions Scheme itself. The Pensions Scheme is what is termed as 'a pay as you go' scheme which in effect means that the scheme is financed by the contributions from contributors so that all those who have contributed are not necessarily guaranteed a pension, but they have to rely on whether in the future there are sufficient contributors and sufficient contributions to be able to receive a pension. This is the sort of scheme that we have. It was started on the 3rd October 1955 and it was actuarially conceived at the time that a Social Insurance Fund should be set up over a period of 10 years and that during these 10 years the workforce would be contributing towards the fund but no pensions would be paid out of these until 10 years later. The actuaries estimated that the fund should hold about two years of benefits so that if at any time contributions ceased for any reason, then for two years beneficiaries could obtain the money whilst some solution was found. It might be also interesting to note that in 1955 there were about 12,200 alien workers in Gibraltar and about 6,000 Gibraltarians working so in 1955 we had a labour force of over 18,000 workers. Ten years later, on the 3rd October 1965, old age pensions started to be paid and, obviously, have continued to be paid. There were some teething problems with the scheme when it started, some workers were denied contributing to the scheme because of the fact that they were non-industrials and earned over £500 at the time. But eventually, on the 1st January 1975, everyone was compulsorily insured. As we all know, Mr Speaker, by a political manoeuvre by the Spanish Government at the time - this happened on the 9th June 1969 - the frontier with Gibraltar was closed and this was later to produce catastrophic consequences on our Social Insurance Fund and has rendered this well and truly bankrupt. As we know, Mr Speaker, when the frontier closed there were around 6,000 Spaniards who had been working in Gibraltar and from then on they were denied entry into Gibraltar, either to work or even to pick up their pensions. By the Spanish authorities, let us be clear on that. At no time has it been by anything done by either the British Government or the Gibraltar

authorities. In 1970 an attempt was made by the Integration With Britain Party with yourself, Mr Speaker, at the time as Chief Minister of Gibraltar, to hand over £0.5 million which were calculated at the time to represent all the contributions that the Spaniards had made to the fund. We learned later that apparently the Madrid Government refused to accept the £0.5 million. I remember we had a motion in this House when we were in Opposition and we had questioned, in fact, whether it was £0.5 million or £0.75 million held in the fund because in 1986 the AACR administration had been saying that in the apportionment of the fund, that in that exercise £0.75 million were said to belong to the Spaniards. I did a lot of research into that period and, in fact, I did find in one of the Hansards there was a debate where the Leader of the Opposition at the time - I am not sure whether he may wish to draw attention to this in his autobiography - shot up from his seat all excited and shouting, because of the fact that the IWPB Government was intending to hand over £0.5 million to the Spanish authorities. In 1973 legislation was introduced in an attempt to freeze the Spanish pensions. This amendment said that in order to obtain revalued pensions a person must have either contributed 10 contributions since 1970 or be a resident of Gibraltar. The effect that this produced was that in most cases the Spaniards who had already qualified for a pension became entitled to a pension of 12 shillings and another eight shillings if there was a dependent spouse; so altogether £1 a week or at today's rate it would be 200 pesetas. The total contribution that each Spaniard made during the 14 years, between 1955 and 1969, was £37.45 - roughly 7,500 pesetas. From the 1st January 1986 those who were already pensioners in 1969 and we were told there were about 700 of them, overnight became entitled to something in the region of £70 a week for a married couple; at today's rate it is £71.70 as from the 1st January 1988. £71.70 a week is something like 40,340 pesetas a week. If one were to multiply that by 365 which is the number of weeks they have been receiving since 1986 up to the end of this year, one would find that a person on a full pension would have received £26,170.50; that is 5,234,100 pesetas for £78.00. So that I think shows the extent of the problem that the Social Insurance Fund had to face. In fact, I know that in some instances the Spanish Government have been over generous in some of these pensions because - I am recalling from memory - at the time those who were 45 years or over because of the fact that they would obviously have difficulty in finding employment in Spain, the Spanish State promised social assistance to them until they became entitled to a pension and that they would guarantee a minimum Spanish pension to them. This happened and there are cases where not only are they getting a Gibraltar pension but they are also getting a full Spanish pension and the Spaniards realised this some two years ago and they did attempt, in fact, to stop this and just perhaps look at any case where they might top up the Gibraltar

pension to make it the same as the minimum Spanish pension but they have not so, in fact, in many cases Spaniards are getting a Gibraltar pension and a full Spanish State pension. Mr Speaker, what actually made the Spaniards entitled to the Gibraltar pension was, in fact, the residential clause, the clause contained in our legislation when they joined the Community in 1986 because resident in Gibraltar was the same as residents in the European Community. The GSLP, Mr Speaker, since 1980, we had been pressing the Government of the time to take some action so as to avoid any possible future liability on the Spanish pensions. The excuse that was given to us by the previous administration was that our legislation could not be amended and that was the advice they had from Dr David Hannay who is now the British Ambassador in the United Nations. Since we came into Government we have checked on this and there was absolutely no reason at all why we could not have amended the Social Insurance Scheme so as to prevent any access to revalued pensions by the Spaniards. As we all know, Mr Speaker, under the Brussels Agreement, Sir Geoffrey Howe, agreed to pay the pensions. It would seem he did it unilaterally without the local Government being aware that he had done so. I would say he not only put his foot in it, he put his whole leg in it. The position on the 1st January 1986 was that the bill to pay Spanish pensions was estimated at £7 million. The Spaniards only had £4.5 million which was the £0.75 million which they had in 1969 updated to the level of 1986 and I think my hon Colleague, the Financial and Development Secretary was the person who at the time was responsible, as far as evaluating the pensions. Because the bill was estimated to be £7 million a year, the British Government provided £16.5 million which together with the £4.5 million represented £21 million and would cover the period from the 1st January 1986 to the end of December 1988. The GSLP's position in the 1988 election was stated very clearly time and again, that we would not pay a single penny towards the cost of Spanish pensions. When we got in in 1988, I found that the money which had been provided for the payment of Spanish pensions was running out by, I think it was, the 27th September 1988. So we approached the British Government and said, "There is no money left. After that date we will stop payment". Let me say that there were already letters prepared to hand over during that period because we were definitely not going to pay Spanish pensions after that date. This led to discussions being held between the Chief Minister and Mrs Lynda Chalker, now Baroness Chalker, and as a result of those discussions the British Government provided £2.36 million to make up the shortfall between September and December 1988 and the discussions also led to an agreement between the British and Gibraltar Governments to the effect that it was recognised that the Social Insurance Fund was not financially viable. The British Government undertook to provide the funds to pay the Spanish pensions provided that the benefits would not be increased during a five year period and that the fund

would be dissolved after five years and these five years end on the 31st December this year. So, Mr Speaker, I think just to say very brief historical background on the Social Insurance Fund and this is the reason why this Bill has been brought before the House. It is a Bill to provide us with enabling powers to dissolve the Social Insurance Fund and allow us to introduce interim arrangements prior to the coming into operation of occupational pension arrangements. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON P R CARUANA:

Mr Speaker, I am tempted to remind the Chief Minister to what he said to my hon Friend, Mr Vasquez; of course he has not been addressing the principles of the Bill but given that the subject matter is so important I think it does not lend itself to jesting. Because, of course, the principles of the Bill are not the history of the Pension Fund or Gibraltar's obvious and urgent need to wind it up but rather the principle of the Bill is that the Government wants the power to do that by regulation rather than through this House. This Bill contains just one section which says, "The Governor may, by regulation, make such provisions as may appear to him necessary or expedient for the purpose of the winding up and dissolution in an equitable and non-discriminatory manner of any fund provided for in this Ordinance and without prejudice to the generality of the foregoing and notwithstanding any other provision of this Ordinance, such regulations may ..." and then it sets out a long list of things that the Government may do by regulation. So the principle of the Bill is really whether this ought to be done by regulation. Let me hasten to say that the Government has the full support of the Opposition Members, both inside of this House and indeed outside of this House, in their efforts to protect Gibraltar from the consequences of not dealing with this pensions problem at this point in time. We recognise also that there is, to a degree, a need for agility of foot and that the question of timing is important and we do not ignore any of those things. It is a pity that the winding up of the fund is not done by a Bill brought to this House because that would give the whole House the opportunity to vote unanimously on it and thereby send outside of these shores the very clear political message that the House of Assembly is unanimous in the strategy adopted to deal with this problem and to protect Gibraltar from this problem. It is an opportunity of which we are deprived on this side and therefore I content myself with expressing to Government Members the sentiments of the Opposition that this is a

problem that needs to be dealt with. However, we still consider that there is scope for dealing with this problem in the House. In other words, whatever the Government is going to publish in these regulations, as publish they must, so this is not a question of secrecy, this is not a question of saying, "We cannot tell you in public because the Spaniards might hear it" because the Spaniards can buy the Gazette and read it. So there is no need for secrecy in order to protect the national interest here. Whatever it is that the Government was going to publish in those regulations to wind up the fund, as it must now publish before December, that really could and in our view should have been brought to the House in the form of a Bill that could certainly, unless Government Members were planning to do something outrageous, could have been legislated in the minimum possible time. But at least it would have given both sides of the House the opportunity to speak to the proposal. And, of course, we divide, in the Opposition, the issue of the pensions caused by the Spanish pensions problem into two. One is immediately to wind up the fund in order to protect Gibraltar from the consequences of not doing so, of not ending the scheme. The consequences of not ending the scheme at least should be that there would be an enormous row between Gibraltar and the United Kingdom Government as to who, if either of them, were going to carry on making the payments on the basis that they are presently being made. Certainly if we do not wind up the scheme the Spanish pensioners would retain an entitlement to the pensions and therefore the question would be not whether they are entitled to collect the pension but simply who would pay, Gibraltar or Britain. Therefore it is urgent and we recognise that it is urgent to draw the line, so to speak, under that problem. Separate to that is what we replace it with? And what we replace it with; we now have a hint from the explanatory memorandum of this Bill that it might be an occupational pension arrangement. It is unfortunate that we have to look at the explanatory memorandum for clues about what Gibraltar's future arrangements may be but, certainly we would be less than happy, in fact, we would be completely unhappy, if the new arrangement, such as it might be, were also to be introduced by regulation and we think that the subject matter of the substituted arrangements - I am trying to choose my words carefully, not to call them a pension arrangement - I think are of sufficient importance given the traditional position of pensions in Gibraltar, I think to be introduced in the form of primary legislation in this House. I think it is legitimate for the Parliament of this community to discuss the new arrangements that will be put into place in Gibraltar which both overcomes the problems that we face as a community but nevertheless continue to make adequate arrangements of the sort from which we do not need protecting. Again, perhaps I have chosen my words far too carefully in that rather cryptic remark but I am certain that Government Members will appreciate at least why I am trying to do that. This Bill

does certainly speak of interim arrangements but that really is principally in the explanatory memorandum, although it is also contained in certain of the sub-sections of the empowering rules, as drafted and coupled with other legislation that already exists in section 20 of the Public Finance (Control and Audit) Ordinance and the whole regime that now exists for the regulation of funds which we now know is being done by regulations, this coupled with that, in effect, I think gives Government Members ample power to introduce the new arrangements by regulation without coming anywhere near this House. Government Members know that we believe that matters of public importance in Gibraltar ought to be debated in this House and, I think, that that is a matter of sufficient public importance to warrant the use of primary legislation in this House rather than subsidiary legislation in the Gazette. Therefore, Mr Speaker, whilst offering Government Members the assurances of the Opposition that if they brought primary legislation to wind up the fund we would support it and we would ensure its passage prior to D-Day, we do not think that the public interests of Gibraltar require that to be done by regulation. We therefore, having expressed our full support to the Government in the winding up of the fund, we do not support their desire to do it outside of this House rather than inside of this House. For that reason we will be abstaining on this Bill which, I repeat for the avoidance of doubt, is not a Bill which winds up the Social Insurance Fund; if it were we would vote unanimously and rapidly in support of it. This is not a Bill to wind up the fund, this is a Bill to give the Government the power to wind up the fund by regulation, something which would quite easily be done in this House by primary legislation. Therefore, given that the Bill is a Bill to give the Government power to do things that this House should be doing, we will be abstaining on the Bill itself.

HON P CUMMING:

Mr Speaker, the GSD, of course, has a lot of sympathy as has been said with the problem that this brings to the Government and the question of the pensions. The fact is that we cannot pay the pensions; the fund is bankrupt. Studies have been done apparently. The Chief Minister told us previously that if we all paid £30 more tax per week then we might be able to pay, that, of course, is simply not on, that is something that Gibraltar cannot be reasonably.... We have got to pay from the fund and we cannot pay from the fund and therefore the fund has to be wound up and a new one started. The GSD, obviously, agrees with the Government in that position. Nonetheless this is a very serious decision. The Chief Minister, particularly, and other members of the GSLP with a trade union background will appreciate that this is a very serious matter, that somebody by the result of decisions should

end deprived of their pensions. Therefore, obviously there are many complicating factors to this matter but nonetheless we must just glance for a moment with humanitarian eyes on this matter. We have had very little information with regards to this whole problem. The Government's policy has always been absolute minimum of information and therefore it has been very difficult to get to grips with an analysis of this problem because simply we have not had sufficient information. Sometimes it is seen that this is a relatively small matter because there is a small amount of money involved and we have not known until now that the Hon Mr Mor has told us that many of these Spaniards, I think he said a few are getting full pensions in Spain as well as this. The point is that we do not know whether there is going to be a humanitarian problem. Are these people going to be in need because we stop paying them the pensions? Not because, if they were we are going to pay our £30 a week extra tax, not for that reason but perhaps we could, in a spirit of regional friendship and cooperation, work together with other people to put pressure on the different sources that have obligations to help. We just do not know whether, in fact, these people are doing very well out of their pensions and it may be that they are small amounts. I was talking to a Gibraltarian lady the other day who, after a lifetime of work has come to her pension some years back and was telling me that she did not get a full pension from her old age pension. And I said, "Why is that?" and she said, "Because I spent five years in England in 1930" or something, I do not know, and so she was deprived of a few pounds to the full pension but she consequently wrote to UK giving her details and and now gets that deficit made up from the UK system. I assume that this is related to the European system now of pensions and it is a very civilised one, if one works for five years in Spain and five years in France one can accumulate a full pension; it seems a very civilised arrangement on the whole. Why is it that the fund is bankrupt and why is it that we say Franco removed the Spanish workers from here as a hostile act to Gibraltar and that is the beginning of the problem? But, of course, there must be some relationship between this problem and problems that politicians throughout the world are worrying about that as the working population shrinks because jobs are less and elderly people live longer, that there is a problem that eventually countries are going to have to do something about, either reducing pensions because they are going to find the same problem that we have, that the funds are going to become bankrupt. There are too few paying in and more and more people drawing out and the funds internationally of old age pensioners are going to have problems and already different experts are analysing and studying the situation. In Gibraltar, of course, this problem is greatly exaggerated because we have had a very big workforce under the MOD and now this is constantly being reduced. So if Franco had not taken the workers away they would have stayed here 10 or 15 years longer, they

would have kept paying in their contributions, the problem would not have been so severe, the problem would not have been so close but, surely, there must have been a problem looming because of the structure of the labour market in Gibraltar and the problems with the MOD. This is a problem obviously that the MOD is responsible for and Sir Geoffrey Howe in an ideal world obviously should have made sure of all these problems before going ahead with it. In an ideal world, of course, the dockyard would have remained open and we would have been able to pay all the pensions. In an ideal world, of course, the Chief Minister, when he was asked about these pensions in this House eight months ago, would have given all the information required. I cannot see for a moment what harm it would have done. Eight months ago I asked him about the pension fund and the Chief Minister was very upset about this, he seemed to be implying that I was sabotaging the national interest, that I was the only one who did not understand the harm that it could do and so on and so forth; the end result no information whatever. So I said, "There is a problem looming then" and he said, "No, there is no problem looming. The problem is that you are trying to frighten the old people who have the word of Joe Bossano that there is no problem with the pensions". Of course two months from the time, suddenly, "Is there a problem?" "Well, the problem is not that we are legally going to have to pay up or anything like that. The problem is that all the Spaniards here are going into a rebellion and they are going to make life more miserable for us and that we are in for a hot winter". All these problems in a democracy are supposed to be out in the open and they are supposed to be analysed by the public and we are supposed to advance as a community in our understanding of the problems and not be suddenly lumped in a situation where nobody really understands. If it is 10 people who have come up to me in the street because they know that I am in politics to say, and this has been repeated in the press, "We are all going to be given back all our contributions that we have made to the Social Insurance Fund now because the papers keep repeating it that this is going to be shared out equally and all that". I have always said to these people, "No.....

HON M A FEETHAM:

What has the hon Member told them? Let us find out what the hon Member has actually told them? Let us see if the hon Member knows what he is supposed to have told them.

HON P CUMMING:

Because some people have been looking forward to £15,000 or £20,000 and they are going to invest it and I have said, "Are you willing to have £15,000 instead of your old age pension?" And they have said, "Yes, because I will do this

and I will do that". And I have said, "What will happen to you if you spend it all or if you lose it all and then you have no source of income?" "Well, the one who does not look after it let him die in the street". No responsible Government, even Mr Bossano, is going to allow in this day and age for somebody to be deprived of all sources of income so it is not true, the money will be given out to Spaniards from British contributions but our money will stay, more or less where it is and produce - this is right I hope, I have been telling people that a Socialist Government is not going to leave people.... This is the extent of the misinformation that there is because we simply have not had any details by which to get hold of this problem and see how big it is. Because it could also be that, in fact, for the Spaniards mostly because many of them were young people when they were taken away by Franco from Gibraltar and they went off to Germany and they worked there 10 years and maybe they went five years to England afterwards and then they came back to Spain and worked for another 10 years so they have got pensions to pick up from everywhere and probably in total they are very well off and they come with a little bit of pocket money to Gibraltar and buy a few pounds of sugar and they go off back to Spain. And if they are going to be deprived of that pocket money and they are going to be given a lump sum of compensation of some thousands of pounds, it may well be that they would be delighted with this arrangement and the end result is that there is no problem whatever. In fact, we do not know whether this is a huge problem of relations with Spain becoming very, very severe or whether this is all a storm in a teacup. [HON J C PEREZ: Mr Speaker, there is no problem.] Then there is also the very popular view that the Spanish politicians are posturing and playing up and being opportunistic and taking advantage of the situation. I think that if we are going to expect good relations with Spain and neighbourly relations within the Campo, we have occasionally to look at whatever issue from their point of view, not because we are going to take that point of view but simply to try and understand what it is that they are thinking. It seems to me that if 10,000 of their people are going to be deprived of money that represents £10 million a year to the Campo Area this is a matter that they are obliged, as politicians, to take very seriously and to promote and to put forward. And say, "But Carracao knew about this five years ago" - I think for most politicians five years is like eternity. And it is true, five years ago but it may be that they have a case. Does this case mean that we are not going to wind up the pensions? Of course not. My worry is that this should be seen as a hostile act. That in Spain, Spaniards should be allowed to interpret this winding-up of the fund as a hostile act to the victimised Spanish worker. That is to say, that these labourers were here - and I remember vividly the day that they were told that they had to go and many of them were friends of mine, as they must have been friends of all

hon Members, people that we remember from that era who, on the day that they were told - these were grown men with tears in their eyes, saying that they had to go and that this was the last day that they would see us. They were victims of Franco the dictator with his demagoguery and nationalist views; they were sacrificed at that altar and they were innocent victims and they were friends of ours and we must not allow it to be perceived that Franco hit them and now we are going to hit them and they are going to be victims twice over. I believe that all of us would prefer good and improving relations with Spain rather than the opposite and this matter is something so susceptible to be used to stir up passions on both sides and give sort of spirals of hatred two or three turns up. I found it rather alarming on the radio the other day, there was a phone in on this issue that many people were phoning in in a tone of hatred "Of course the pensions must not be paid". I agree that the pensions must not be paid but it is the context in which they are not going to be paid that worries me. It is the colour that is given to it, on that side and on this side and on this side, of course, it is aggravated by a total lack of detailed information by which proper analysis can be made. The paternalistic, even dictatorial view that Joe Bossano has taken on this matter when he says, "Here nobody needs to worry because my word guarantees your pensions and everything is all right". In other words, "Do not bother your head analysing it, looking in, asking for information, leave it all to me and I will do it". That is probably what Franco thought when he removed the labourers from here, that they would be looked after and they would be all right and, of course, they were not. Mr Speaker, the Opposition obviously supports the winding-up of the fund because it seems to be an unfortunate necessity. It would be far better if the fund were able to pay and failing that, it would be better if by a concerted effort of the Chief Minister together with the Campo Mayors, were able to influence the Spanish Government and the British Government to take their case to the EEC so that the EEC would help out with funding and the pensions could continue to be paid because this would help relations with Spain and this would help business and this would help something good for our future to come about more easily. It would help a change in the climate.

HON CHIEF MINISTER:

Mr Speaker, I am grateful to the Leader of the Opposition for what he said. I take full cognizance of the support that he has expressed for the step that needs to be taken and I regret the fact that the last speaker does not seem to belong to the same party or the Opposition or the same House because he is obviously talking about a totally different scenario from what the rest of us are talking. I have no intentions of going to the Common Market with

Senor Carracao or anybody else and asking the Common Market to provide £100 million for the pensioners in the Campo. I wish I could get £100 million for the people of Gibraltar and there is not the remotest possibility of getting that kind of money. We are not talking about pocket money and it is not that he does not know the figures, he has just been told the figures and having just been told the figures, five minutes later he stands up and he says, "Because it is all secret and we do not know how much money it is". He has just been told how much money it is. He has just been told that they paid £0.5 million; £0.25 million the workers, £0.25 million the employers over a 15 year period an average of £78 per worker; that that was enough to buy £1 a week. That is what that bought, £1 a week and that they received back £60 million so far. We are talking about £10 million a year going into the Campo as opposed to £8 million for the Gibraltar pensioners. The cost to them is already 25 per cent higher so we are not saying that we wish the fund were able to pay, no that would be 125 per cent increase on the cost of pensions in Gibraltar. So if he accepts that it is out of this world to imagine that it is possible for the fund to pay or for the Gibraltarians to fund it, then one cannot wish that it were possible if one has just recognised that it is impossible. If people over there are going to be deprived of an income from Gibraltar, it is precisely because the procedure has not been followed, good luck to them that it has not been followed since 1980 but the procedure has not been followed, which he made a passing reference to which is that of aggregating and apportioning pensions from different member States. Surely, he can understand that. He can understand that if a pension in Spain is £50 and one gets £47.80 from Gibraltar and the proper EEC system was being followed, people would have got £2.20 there and £47.80 here and then when they lose the £47.80 they get the £50 there because what they had been getting ought to have been the balance between the two. If they have had their £50 and the £47.80 and they are used to £97.80, of course they do not want to lose the £47.80. We can understand but let us not say, "For the sake of friendship let us all claim that something is happening" which is not happening. Our people, who only get £47.80, if they do not get the £47.80 they get nothing and my responsibility is to make sure that that does not happen to our people. And if the pensioner from Gibraltar lives in Australia and he does not have enough income and he has settled in Australia years ago, he gets..... [HON R MOR: A pound.] He gets £1, yes; we are still sending £1 a week to the people in Australia who were not covered by the EC law. He gets the difference between the £1 and whatever is the minimum income in Australia from the Australian Government and that is how it works in different places. In Spain, the hon Member may not know it, but it is not a secret; everything that I am saying now was public knowledge in 1988. When people are reacting adversely to what the Spanish political leaders in the Campo have said, it is not

surprising, Mr Speaker. I found out here in Question Time in this session of the House from the Leader of the Opposition that Senor Carracao was saying I was kicking him in the shins and I found out from the Leader of the Opposition, not from Senor Carracao. I can give the hon Member, if he wants, a copy of 'Area' of December 1988 when Carracao publicly welcomed the five-year agreement which he certainly knew that they would be getting paid for five more years and if he reads today's paper he will find out that the Junta de Andalucia has said that the pensions will continue. Well, good luck to them. Fine, if they continue they continue and if instead of getting £97 they get £197, fine; and if they come and spend it here even better. But what we cannot do is, for the sake of good relations with our neighbours, which we all want, pretend that things are not what they are and what they are is that they have had an incredibly good deal which nobody ever in any pension fund anywhere in the world has ever had and that is the truth. That the British Government, as far as we are concerned, failed to take our advice on how to protect us from that situation, and if we have been protected from that situation, there would not have been a need to dissolve the fund. Let us make that absolutely clear. There is no question of the demographic changes of our pension fund having had to take us down this route. The reason why we are dissolving the fund today is because that is the price that I agreed to five years ago in order to get them £50 million in five years in their pockets and in the economy of the Campo. That five year payment of £10 million a year, the pensioners in the Campo and the leaders in the Campo owe to Gibraltar, we fought for it for them. What we cannot have is a situation where, fair enough we do not want any medals for it but because we got them five years they cannot say, "Well, because you got me five years instead of 50 years I will now close the frontier". "Well, wait a minute, I did not have to get you five years, we could have dissolved the fund in 1988 and we would have been where we are now". I take the point that the Leader of the Opposition has said about bringing a Bill here to say, "The Social Insurance Fund is dissolved". Unfortunately, it is not as simple as that. It has to be done before the 31st December 1993 because that is what the Memorandum says, signed in 1988 between the UK and ourselves. We are trying to see how we deal with the situation where that happens and yet the accounting year ends on the 31st March 1993. The social insurance cards get exchanged in January and we do not know who has paid up to December 1993 until nine months down the road. So we are still looking to say, "How do you put money into a fund that has been dissolved? What is it we need to do technically?" Part of the discussions that I have had in the UK are, and I have said, "Will it do if we just say, 'Well, right, the fund is put, as it were in suspended animation until it finishes collecting the money that has got to come in'?" Because the payment the UK proposes to make as a final share-out to former Spanish pensioners

and to pensioners who have not yet got there; we are talking about 7,500 already collecting and 5,000 to come, which makes it about three times our number. That payment they are going to determine on the premise of a comparable distribution of the distribution we would be entitled to from the size of the fund on the 31st December. We are not going to know the size of the fund on the 31st December until some time in 1994. What happens then in January 1994? What happens is that we will put transitional interim provisions in to give protection to people until the new occupational scheme comes in which has to be an occupational scheme and which is not laid down by statute because it will not be a State statutory scheme and it has to have labels on it which is, I think, the kind of message that I understood from the Leader of the Opposition that he understood why we need to say things in a certain way. Therefore the one thing we cannot say is what the hon Member said, "Our money will stay more or less where it is". No, that is the kind of lethal statement that may well leave us with no money. So we have to do what is Community proof and therefore we have to be very careful and look at every fullstop and every comma to make sure that everything is Community proof. Frankly, at the end if it were not Community proof we still would not be able to pick up the bill because we have not got the money but it would certainly, I can assure Opposition Members, lead to the kind of difference between ourselves and the UK. We could make the ones we have got now pay into insignificance if they turned round to us and said, "Well, you have not done the thing properly; you have not properly taken care of the mechanisms you could put in place; we are now being sued as a result; we have to find £100 million, I now have to go to the Chancellor of the Exchequer and to the House of Commons to ask for £100 million because you have not got it". You can well imagine what that would do to that particular relationship that Gibraltar and London have. So we are being very, very, very cautious on how we do it. But all I can tell Opposition Members is what I have told people and the feedback that I have got is that people are reassured by it which is that people will not be left high and dry in January 1994. And it does not mean that everything will suddenly stop at midnight when we are all half drunk in our New Year party and at one minute past midnight I will appear with a hat and a hooter saying, "I have now got the pension scheme of 1994". That is not what is going to happen. So the final new system will probably not be there until 1995. But in 1994 we will have put things in place which will ensure that Opposition members do not have to worry about the people who they are paid to worry about, who are the people who voted them here and if they want gratuitously and out of their goodness of their hearts to worry about other people who do not vote for them and who do not put them here, well that is fine. They can do that but that is not the concern of this House. That is a matter of foreign affairs and we are not yet responsible for our foreign affairs, somebody else is.

MR SPEAKER:

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

HON R MOR:

Mr Speaker, there is not much I need to say. Let me say that the total liability of the Spanish pensions was calculated to some £280 million until the year 2026 when by that time it would be assumed that the pre-1969 Spanish worker would have moved on to the sunnier Spain, so to speak.

Question put. 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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON R MOR:

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

ADJOURNMENT

HON CHIEF MINISTER:

Sir, I have the honour to move that the House do now adjourn to Friday 3rd December 1993 at 9.00 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 1.10 p.m. on Friday 26th November 1993.

FRIDAY 3RD DECEMBER 1993

The House resumed at 9.10 a.m.

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 the Environment and Tourism
The Hon J L Baldachino - Minister for Building and Works
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 Social Services
The Hon J L Moss - Minister for Education, Employment and Youth Affairs
The Hon J Blackburn Gittings - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon P R Caruana - Leader of the Opposition
The Hon Lt-Col E M Britto OBE, ED
The Hon F Vasquez
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

Before we start on Bills I would like to make a statement on the question of privileges.

When this House unanimously confirmed me as Speaker I pledged myself as minder of your privileges that I would ensure that no obstacles or impediments whatsoever would impede you in discharging your duties in the House.

With this in mind, without notifying or being asked by any hon Member but after seeking legal advice, I consider it prudent before the last sitting, to designate the precincts of the House of Assembly as I am empowered to do under section 2 of the House of Assembly Ordinance.

Hon Members may have noted comments in the news media arising from my ruling. In the comments it is recalled that hon Members were once "marooned in the House of Assembly by demonstrators for hours or having demonstrated on all sides on entering or leaving the House".

It is precisely to prevent a repetition of such an effrontery, that the precincts have been defined. It follows the practice in Britain where both Houses give directions at the commencement of each session that the Police should keep during sessions of Parliament, the streets leading obstruction shall be permitted to hinder the passage thereto of Lords and Members. When "tumultuous assemblages" by people have obstructed the thoroughfares, orders have been given to the authorities to disperse them.

It is fundamental to democracy that the elected representatives are not subjected to any kind of molestation that will dissuade them to discharge the duties they have to their electors without fear or favour.

At the same time it is right and proper for people generally to express their views in public demonstrations in a free society such as ours.

The designation of the precincts in no way deprives citizens of this right. I must make it absolutely clear that the arrangements would apply only on days when the House is sitting or in circumstances where I consider it necessary for it to be implemented. They are free to demonstrate in the area of the pavement on the east side of Main Street about 20 yards from the House of Assembly and on the other three sides of the House of Assembly on the pavement opposite the Piazza.

I am satisfied that the two democratic principles of the privileges of the House of Assembly and its hon Members and the freedom of the people to demonstrate publicly are upheld and that there is nothing whatsoever that trespasses on civil rights as wrongly commented.

BILLS

FIRST AND SECOND READINGS

THE EMPLOYMENT (AMENDMENT) (NO. 2) ORDINANCE 1993

HON J L MOSS:

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

Question put. Agreed to.

SECOND READING

HON J L MOSS:

Sir, I have the honour to move that the Bill be now read a second time. The purpose of this Bill, Mr Speaker, is essentially a tidying up exercise which reflects changes which have already, in practice, been taking place in the field of employment in Gibraltar. Its purpose is clearly to ensure that whilst EEC Directives are respected by the Government's pursuance of the battle against unemployment, that this be done in a way which also gives maximum protection to the Gibraltarian people who live in Gibraltar. The Bill is self explanatory. I do not think that the purpose, certainly, behind the Bill can be considered controversial, I am sure that the entire House will share the Government's concern about the importance of fighting unemployment and I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, I am pleased to be able to concur with the closing comments of the Minister. The Opposition do indeed support the general principles and the intention of the Bill and we will obviously be voting in favour. The only point that I would make in addition to what the Minister has already said is in the context of clause 5 of the Bill. I am surprised that the Minister has not already circulated amendments to the clause as I assume he will do at the Committee Stage because the clause, as it stands, is unfinished and is, in fact, a bit of a nonsense as it reads at the moment. There are bits of the original legislation that have been left out and I understand that the Minister is aware of it but it would have been more helpful to answer

on the Bill if we had been advised of what has been left out on purpose and what will be included or what will be left out completely. The second point is that I would draw the attention of the Minister again to clause 5(b), "Provided that the provisions of this section" bit of the clause. Perhaps the Minister would like to elaborate on the purposes of this particular section of the clause and also to take note of the constructive criticism from the Opposition that it would appear to us that the way that part of the clause reads at the moment might be counter-productive in the sense that it could make the whole of that section non-applicable to Gibraltarians and to all persons who were in lawful employment prior to 1st July, that section of the clause can make the whole of that new section not applicable and therefore can defeat the purpose for which it is intended. To close, Mr Speaker, as I said, the Opposition supports any measure that is designed at improving the employment situation in Gibraltar and as such we will be supporting the Bill.

MR SPEAKER:

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

HON J L MOSS:

Mr Speaker, I am grateful to the hon Member for his support, in principle, of the Bill. He is correct in saying that an amendment is going to be moved at the Committee Stage. I had assumed it had been circulated and if it has not been it is a procedural error, it is not that there was any intent not to provide the information at this stage. The amendment will involve, in fact, particularly changes to section 5. I think they will have the effect of removing certainly the points which the hon Member has expressed reservations about.

Question put. Agreed to.

HON J L MOSS:

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

This was agreed to.

THE CIVIL JURISDICTION AND JUDGEMENTS ORDINANCE 1993

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to make further provision about the jurisdiction of courts and tribunals in Gibraltar and about the recognition and enforcement of judgements given in Gibraltar or elsewhere and to provide for the modification of associated legislation be read a first time.

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, in 1981 when the Lord Chancellor of England, as he then was, Lord Hailsham, rose to move the Second Reading of this Bill in the House of Lords, he said that he felt that the Bill should be accompanied by a Government health warning and he did not say that because there is anything inherently dangerous in the Bill. But it is so long-winded and so boring that I think he thought he might put all Members of the House of Lords to sleep. I hope I do not do that. He also added that if anybody expected any heart throbbing emotion to come from what he had to say, they should leave the Chamber. Mr Speaker, what I propose to do is to say this and take everybody out of their agony. I will be about three minutes and, in fact, I just want to say what the Bill is about very briefly. It is totally without political flavour and I think it will appeal to every hon Member in the House. The Civil Jurisdiction and Judgements Ordinance mirrors the Bill which Lord Hailsham introduced in 1981. It has been extended by the 1988 Lugano Convention from the decision reached in the Brussels Convention in 1968 and it now deals with the enforcement of judgements in civil and commercial matters including the Protocols annexed to the Convention. The ratification of the Brussels Convention is a treaty obligation which the UK undertook on Gibraltar's behalf and the reason one has to look at the Brussels Convention with the Lugano Convention is that the Brussels Convention dealt with the European Community countries and the Lugano Convention dealt with the EFTA countries, such as Austria, Switzerland, Norway, Sweden, Iceland, etc. So they are now all joined together. The object of the Conventions taken as a whole is to make judgements given anywhere within the European Union and the European Free Trade Association's area fully effective for their enforcement. I think Lord Hailsham said in 1981, and I will use his words, "That respect for law in a society

depends in no small measure on the existence of an effective means of enforcement and if it is shown that parties can evade their obligations as contained in the judgements of our courts, the usefulness of the whole process is greatly diminished". This Bill eliminates one major area of evasion immediately and that is the removal of the judgement debtors assets to a country where the judgement does not run, now it cannot be done. This is achieved by regulating directly the grounds on which the courts of adherent countries may assume jurisdiction and then providing that all such judgements are enforceable. Up until now, if enforcement of a foreign judgement was sought, our courts have had a duty to refuse enforcement unless it could be shown that the original court had assumed jurisdiction on a proper basis. This Bill will therefore dispense with the need for a re-examination of that stage of enforcement and will make enforcement automatic in every other country. This approach also has a second advantage in that it removes the chance to go forum shopping, as it is called, one can no longer look around for what one thinks would be the most favourable jurisdiction to present the case. The ambit of the Bill is purely confined to civil litigation and it will involve alterations of our internal law and parallel alterations in the law affecting relations between ourselves, the United Kingdom and other countries and territories with whom we are in a contracting relationship. It does not deal with criminal law; it does not deal with divorce or custody or bankruptcy or the windingup of insolvent companies but there are some provisions relating to maintenance orders and their enforcement. The Bill determines who may be sued in our courts, particularly in what circumstances a person who does not reside in Gibraltar may nevertheless be sued in these courts. With the exceptions mentioned, it will apply to almost all proceedings brought to the Supreme Court, the Court of First Instance and the Magistrates' Court. In other words, jurisdiction will no longer follow automatically from lawful service - I am shortening this. Lawful service of process will no longer be the automatic determination of who can be sued. I am almost at the end of what I have to say. I have talked about jurisdiction, I now turn briefly to enforcement; broadly speaking, any civil judgement given by a court in proceedings to which these Conventions apply, is to be recognised and enforced in all other contracting countries. A judgement obtained here against a defendant who happens to be domiciled outside the Community or EFTA area to which the jurisdictional rules do not apply, nevertheless, can still try to enforce them in Gibraltar. The Conventions, of course, only provide for reciprocal enforcement in another contracting state. It does not govern the enforcement of judgements obtained within the same contracting state and does not regulate the enforcement of judgements obtained in countries outside the Community or the European Free Trade Area. Lord Hailsham said that he was going to conclude by offering some remarks on the European dimensions of the Bill. He said, as a

practical matter, "it is obviously inspired by the increased commercial and social mobility which followed the creation of the Community and the European Economic Area Agreement with the EFTA countries and the special problems of enforcement following that". This phenomenon is not likely to recede whether as between the contracting states or in any other context. He thought and said in 1981 that these Conventions represent a far-sighted measure. He is right in hoping that the Bill maximises its potential both by giving them effect in every country and, of course, now in Gibraltar, and by using it as a vehicle for rationalisation and other aspects of this branch of the law. As Lord Hailsham said, Mr Speaker, it was a totally non-political Bill with no party flavour; it is boring, it is heavy, it is technical and I hope I have not kept everybody too long. Can I just say finally that the speech in Hansard of the House of Lords in 1981 is really very heavy going and I think it is probably right that I should pay tribute publicly to a young barrister who has recently been assigned to my Chambers, called Mr Raphael Benzaquen, who has very greatly helped me in the distillation of Lord Hailsham's very long speech into the few words that I have had the chance to say today and I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, I have heard the Attorney-General's comments. Boring, heavy and technical, this Bill, and the Convention it applies, may be. That does not alter the fact, Mr Speaker, that it is an exceedingly important piece of legislation and the Opposition supports this Bill which implements the Brussels Convention on the jurisdiction and the enforcement of judgements in civil and commercial matters, together with its Protocols and the Accession Conventions as well as the Lugano Convention. Mr Speaker, the enactment into local law of these important conventions dealing with the jurisdiction and recognition of judgements between the contracting States in Europe, represents an important step in our continuing evolution and development as a sophisticated European jurisdiction which will serve to enhance Gibraltar's reputation and efficacy of the significant jurisdiction to the location of commercial activity here. The legal profession in Gibraltar has been calling for the local enactment of this Convention for some time and its passage into our laws is to be welcomed and especially welcomed by the Opposition, Mr Speaker.

MR SPEAKER:

If no other hon Member wishes to speak I will call on the Attorney-General to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I am grateful to the hon Member for his words of support.

Question put. Agreed to.

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 today.

This was agreed to.

THE DOMESTIC VIOLENCE AND MATRIMONIAL PROCEEDINGS ORDINANCE 1993

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to make provision for matrimonial injunctions, and to provide the police with powers of arrest for the breach of such injunctions in cases of domestic violence be read a first time.

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. I do not think that I can usefully add, Mr Speaker, anything to what is contained in the explanatory memorandum to the Bill save for, perhaps, one matter. The object of this Bill is plain; it is to give to the Magistrates' Court or such other court as the Governor may specify, the jurisdiction to provide a temporary injunction excluding from the matrimonial home one party to a marriage where the court is of the view that such exclusion is necessary in the interests of the safety of the other party or a child living with that party. The Bill extends the jurisdiction of the Magistrates' Court to deal not only with husbands and wives, but with persons who live in the same household as husband and wife, common

law wife, co-habitee or whatever name one wants to use. The Bill makes provision for a power of arrest to be attached to an injunction granted under the Bill. And the Bill specifically precludes its operation from affecting the property rights of either party or any other person. Mr Speaker, in the Bill, and this really I am pointing out for the benefit of the hon Members present who are in my profession, in clause 4(1), in the final few words, in case anybody is confused, it says, "the court may, if it is satisfied that the other party has caused actual bodily harm". "Actual bodily harm" in that context, and I refer now to the hon Members of the Bar, is not meant to be 'ABH' as we understand it under section 47 of the Offences Against the Person Act in the UK or I think it is section 94 in our jurisdiction; it means in English exactly what it says 'actually being hurt' as opposed to 'ABH' as we know it. I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, the policy of this Bill as, indeed, the policy of the similar provisions that are contained in the Maintenance (Amendment) Ordinance which follows it in the agenda, has the full support of the Opposition. This House must be aware, Mr Speaker, that the unfortunate rise in unemployment and financial hardship in Gibraltar brings with it a sorry human concept of private unhappiness and stress which all too often leads to instances of domestic violence. The last couple of years has seen the formation of a number of help groups, manned and financed by volunteers to help battered wives and children needing refuge away from the matrimonial home. Over the last two years, in particular, Mr Speaker, they have seen themselves overwhelmed with their case loads and it has become increasingly obvious that this House needed to implement some sort of legislation to protect the interests of battered wives and children in these circumstances. This law and the relevant provisions of the Maintenance (Amendment) Ordinance, will bring our law almost into line completely with the UK in providing quick, effective and cheap relief to the victims of domestic violence. What we particularly welcome, is that for the first time it gives common law wives the right to protection and ouster orders; it separates the availability of such ouster orders from any interest in the matrimonial house in question; it separates ouster orders from divorce or separation proceedings and, for the first time, it gives the Magistrates' Court the power to make such ouster orders

which obviously makes them quicker and cheaper and therefore more effective in the circumstances. Having said all that, Mr Speaker, the fact is that the Opposition do have some reservations about a certain amount of duplication which is evident in the two Ordinances and I am going to have to refer to the Ordinance next in the agenda. We have looked at this and we have made suggestions to the law draftsman as to how this might be avoided. Principally, the amendments that we shall be proposing at the Committee Stage are as follows: firstly, the domestic violence jurisdiction be granted to the Supreme Court and not to the Magistrates' Court, as presently drafted, as in fact the Supreme Court also needs this form of jurisdiction. It does have it in some circumstances where already the Supreme Court has jurisdiction in other proceedings, for example, in matrimonial proceedings and in separation. In the context of separation the Supreme Court can intervene and grant this sort of ouster order. Where, in fact, the Supreme Court where it is not already involved in the proceedings it does not have the jurisdiction to make this sort of ouster order and we, in the Opposition, think it should. What we would propose therefore, Mr Speaker, is that the jurisdiction contained in this Ordinance, as drafted, be transferred to the Supreme Court and since the Magistrates' Court, under the Maintenance (Amendment) Ordinance is getting very similar jurisdiction to the one contained in this Ordinance, that the jurisdiction of the Magistrates' Court in the Maintenance (Amendment) Ordinance be extended slightly to include the common law spouses, the co-habitees as the Attorney-General has referred to them. That way the jurisdiction of the Magistrates' Court under the Maintenance Ordinance, once it has been amended, will be exactly similar to the one contained in this Bill. Our suggestion, therefore, is that this jurisdiction contained in the Domestic Violence Bill be kicked upstairs, as it were, to the Supreme Court which clearly needs this part of the jurisdiction. Already, Mr Speaker, the Magistrates' Court is going to have power, under the Maintenance (Amendment) Ordinance which we are about to hear, to make certain orders between common law husbands and wives and it just seems logical, Mr Speaker, if it is intended to extend the jurisdiction of the Magistrates' Court to grant ouster orders between common law husbands and wives, to do that within the Maintenance (Amendment) Ordinance which already has provision for ouster orders rather than have two pools of jurisdiction which are going to create a certain amount of confusion. So, although supporting both the policy and the Bill, Mr Speaker, it will be the intention of the Opposition to suggest various amendments which already have been or are in the process of being put to the law draftsman in this respect.

MR SPEAKER:

If no other hon Member wishes to speak I will call on the Attorney-General to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I am grateful to the hon Member for his support in connection with this proposed Bill. I know there has been a very large input from various ladies groups and also from the Gibraltar practitioners who specialise in matrimonial law. The law draftsman has been closely in consultation with those groups and the other lawyers to try and work out a formula which, as the hon Member says, meets by and large with the support of the Opposition. The purpose of the Domestic Violence and Matrimonial Proceedings Ordinance was intended to give quick and readily available relief in a Magistrates' Court which sits every day from 10.00 am till 5.00 pm and we thought it would be easier to go straight to a Magistrates' Court which is there all the time, which is not subject to the recesses which the Supreme Court has from time to time during term time and also, as we understood it, the various representatives of the women's lobby were concerned about cost and this is something I am told as opposed to knowing it from my own knowledge, the costs normally are met by the legal aid fund and obviously the Government would have an interest in keeping cost down as well as would the persons who wished to make an application. But I hear what the hon Member says. I give way.

HON F VASQUEZ:

I understand what the Attorney-General is saying. The point is this, that under the Maintenance (Amendment) Ordinance already the Magistrates' Court is being granted the jurisdiction for the first time to make ouster orders. If the Attorney-General refers to sections 16A, 16B and 16C of the Maintenance (Amendment) Bill he will see that the jurisdiction being conferred to the Magistrates' Court under that Bill is almost identical to that contained in the Domestic Violence Bill. That being the case, we fail to see the need for the duplication in the jurisdiction and what we are suggesting is that the jurisdiction presently contained under the Domestic Violence Bill which only goes further than that contained in the Maintenance (Amendment) Ordinance to the extent that it applies to common law husbands and wives, be transferred to the Maintenance (Amendment) Ordinance so that in fact the Magistrates' Court under that Ordinance be granted exactly the same jurisdiction the Government is planning to give it under the Domestic Violence Ordinance, having thereby secured the broad jurisdiction of the Magistrates' Court as envisaged under this Ordinance, under the Maintenance (Amendment) Ordinance, it then would be possible simply to kick this Ordinance upstairs into the Supreme Court and give the Supreme Court a similar jurisdiction which presently it does not have and that is all.

HON ATTORNEY-GENERAL:

Mr Speaker, I hear what the hon Member says and I understand what he says and, of course, I have looked at the new sections 16A, 16B and 16C in the Maintenance (Amendment) Bill. The point really is that under this present Bill which we are considering, it applies to husbands and wives and co-habitees and common law wives; in the Maintenance (Amendment) Ordinance that is referring virtually throughout, I think, except with one very small exception, to persons who are married, husbands and wives. It would mean, we think, amending the whole of the Maintenance Ordinance to include persons who are not man and wife and that is why it has been chosen to do it this way. Frankly, I understand exactly what the hon Member is saying but I cannot see what the problem is to be able to go to the Magistrates' Court, as I have said, which is there every day, virtually, of the year, 9.00 am till 5.00 pm and make an application if married or if living together as husband and wife or co-habitees. I really do not see the point and I commend the Bill to the House.

Question put. Agreed to.

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 today.

This was agreed to.

THE MAINTENANCE (AMENDMENT) ORDINANCE 1993

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. This, in our view, Mr Speaker, is fairly straightforward. The object of the Bill is to amend the Maintenance Ordinance to make provision for a party to marriage to make a complaint to the Magistrates' Court under sections 16A, 16B and 16C, I think, and that is an order protecting either the complainant or a child of the family from violence or a threat of violence by the other

party to the marriage and for an order prohibiting that other party from entering the matrimonial home. The Bill also makes provision for there to be attached to the order a power of arrest. The Bill specifies that the granting of an order under the new provisions, shall not affect the estate or interest in the matrimonial home of the person against whom the order is made or against any other person. The Bill further makes provision for a man to have the duty to provide reasonable maintenance for a woman with whom he has been living as man and wife, if he has a duty in respect of the children of that relationship. Maintenance orders can now be registered in the Magistrates' Court. There are provisions to make registration cheaper and easier enforcement of the order. Amendments to sections 4, 12, 20, 38 and 44, as is said in the explanatory memorandum, allow access to the Magistrates' Court where a financial remedy is sought and the defendant has assets in Gibraltar. Additionally the Bill translates penalties under the Maintenance Ordinance into references to penalties on the standard scale, and makes amendments consequential to the abolition of the position of the Director of Labour and Social Security and for probation officer, is substituted a person appointed by the Government for the purposes of the legislation and in relation to the requirement for a certificate confirming an absence from Gibraltar of a person serving in the merchant navy, amends section 15 which I think stops the Captain of the Port being involved. I commend the Bill to the House.

MR SPEAKER:

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

HON F VASQUEZ:

Mr Speaker, really in confirmation of the comments I have already made in reference to the previous Bill, again the Opposition support the policy and the regime established by this Bill. Principally, really there are three main bodies to this. The Bill extends the powers of the Magistrates' Court to make maintenance orders so long as the party has assets here in Gibraltar and that applies even in common law relationships as opposed to legalised matrimonial relationships. Secondly, it enables the Magistrates' Court to enforce the Supreme Court maintenance orders which itself is a very important jurisdiction again, Mr Speaker, because it limits the costs which the person seeking the enforcement of that order has to incur. Once the procedure is in motion the court itself undertakes the recovery of the monies in question. Thirdly, Mr Speaker, this Bill empowers the Magistrates' Court to intervene in situations of domestic violence which I was referring

to only a few minutes ago. Our comments, Mr Speaker, on that aspect of the jurisdiction are as follows. At the moment, as drafted, that jurisdiction (sections 16A, 16B and 16C) only applies to married couples and we in the Opposition, Mr Speaker, are of the view that this power should be extended to common law partners as provided in the Domestic Violence Bill. This would extend the jurisdiction in order to avoid duplication between the two Bills and would release, in our view, beneficially, the Domestic Violence Ordinance to the Supreme Court as it too needs this type of jurisdiction. This, in our view, Mr Speaker, would provide a simpler and more comprehensive division of the jurisdictions of the two courts and avoid confusion in this respect. There is one other point that we will take up in Committee Stage, Mr Speaker, and that is the question of time limits. Ouster orders, under section 16A as presently drafted, do not contain any time limit. This, in fact, is to be controlled by the Domestic Violence Bill which makes orders applicable only for three months. We feel it is important that there are time limits on these sorts of orders. They are not designed to be property adjustment orders, they are merely supposed to enable the courts to intervene in situations of domestic violence and are supposed to confiscate the matrimonial home or the home of the common law spouses from the offending party and we will suggest, therefore, that the similar time limit of three months which is going to be enacted in the Domestic Violence Bill be applied to ouster orders under section 16A. Those are the only comments, Mr Speaker. Certainly the policy and most of the specific provisions of this Bill are welcomed and supported by the Opposition.

MR SPEAKER:

If no other hon Member wishes to speak I will call on the Attorney-General to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, once again we are pleased that the hon Member and his colleagues support the Bill mostly and I hear what he has said about the other matters and we have discussed them before.

Question put. Agreed to.

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 today.

This was agreed to.

HON P R CARUANA:

Mr Speaker, I wonder if before the House adjourns to Committee Stage I might be allowed to raise a matter under the guise of Point of Order and I hope that Mr Speaker will allow me to raise it under that guise. Really it is an appeal to the Chief Minister. When we considered earlier this morning the Employment (Amendment) (No. 2) Bill 1993, the Opposition Members gave their consent that the Committee Stage be taken today rather than insisting on waiting the usual 24 hours or next day. That we did in a bona fide attempt not to delay the House in the passage of legislation when we know what the legislation is. We have had an opportunity to study it and we do not really need the extra 24 hours or any time to look at it and I think it would be childish, almost, to insist on bringing the House back on another day for no good reason. That said, after we had spoken on the First and Second Readings and after we had given our consent for the Committee Stage to be taken on the same day, we received notice of an amendment which is, firstly, itself very substantial; that the Opposition cannot really have any opportunity to consider its implications and, secondly, that it repeals four pages of another Bill and that we cannot even consider what effect the repeal has either generally or in relation to this legislation. I do not mind saying that I consider that this would have been a reasonable case in which the Opposition could have then asked to be given the extra 24 hours if as responsible legislators, not as partisan politicians, frankly to sit here and legislate on legislation about which one is entirely ignorant, I think, is doing less than a service to this community. Really, I do not know if one can withdraw consent once it has been given but had we had this two minutes sooner than it was given to us, we would never have given that consent. I would ask the Chief Minister if he would consider, in effect, standing this down until later on in this meeting or if this meeting is going to carry on until Monday, until Monday but at least to give us an opportunity to know what the legislative..... [HON M A FEETHAM: We can leave it till the end.] Yes, Mr Speaker, but leaving it to the end, which is the suggestion that I am hearing across the floor unofficially, does not really help because it means that one or two of us have now got to disengage ourselves from the proceedings of this House for the rest of the day and actually study this and it is not really adequate.

HON CHIEF MINISTER:

On the pseudo Point of Order, Mr Speaker, I understand the legitimacy of the point put across by Opposition Members and certainly since we do not know how the rest of the day is going to go, if we are in a situation where we are going to need to come back on Monday anyway then I am prepared not to take the Committee Stage and start on Monday with the Committee Stage. I certainly would not want to

come on Monday just because of this, frankly, so it may well be that we will not take in this House if hon Members, having had a chance to look at it between now and this afternoon, still feel they need longer to deal with it. Let me say that the amendment creates enabling powers but does not actually do anything. Hon Members may not like the Bill doing that. What the amendment does is primarily in respect of work permits. If I draw the attention of hon Members to the new provision for section 20 of the Ordinance they will see that effectively what we are doing is saying, all the kind of areas in which the methodology for granting of work permits could be stipulated, with a caveat that nothing that is done by any regulation can fall foul of Community obligations. Given the technical nature of the Community requirements on the one hand and our attempts to protect local labour on the other, what we cannot have is a situation where every time we introduce some measure somebody says that it is against Community law. We then have to take independent advice. We then have to go back to London. We then get a confused feedback and we may then have to come here and reword the original. To the extent that this amendment does anything different from the other one, is that it is shifting how the work permits system should work from the body of the Ordinance to regulation but saying that those regulations cannot come in unless we have previously been able to clear that they are not in conflict with Community law. If hon Members feel, after having studied that, that they need to spend more time on then I am prepared to, if necessary, leave it until the next meeting.

HON P R CARUANA:

Mr Speaker, really I accept the Chief Minister's comments that the actual new text to section 20 is enabling powers. The new clause 2, in other words, clause 11 of the Bill now repeals more sections than the previous. Before we were just repealing section 14 and now we are repealing section 14, 21, 22 and 23 and really it is the effect of repealing those sections that we have got to look at to see what their wider impact and the consequences of repealing those three, which I understand is nearly three pages of legislation, has. For example, and I will try and choose my words carefully given that we understand the juggling act that is trying to be performed here, one of the things that we need to consider is whether the effect of repealing the other three sections - and I do not, as I stand on my feet, even know what those three sections say - is whether, in effect, we are subjecting local people to a whole new regime of employment control. Really one cannot decide even if there is a point that needs to be raised until one can consider these points. I would suggest, Mr Speaker, as an attempt to avoid having to come back, if that is what would happen just for this, that we either adjourn a little bit earlier for lunch today or reconvene

just a little bit later after lunch. In a way that gives me half an hour or three-quarters of an hour to actually look at this and then I will be able to say to the House, "Well, we are happy to proceed nevertheless".

HON CHIEF MINISTER:

I am quite happy with that, Mr Speaker.

MR SPEAKER:

I think I should like to point out that it is vital that the Opposition gets the amendment on time otherwise they cannot make an intelligent contribution to the House. We will carry on now with the Committee Stage.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The European Communities (Amendment) Bill 1993; the Contracts (Applicable Law) Bill 1993; the Litter Control (Amendment) Bill 1993; the Births and Deaths Registration (Amendment) Bill 1993; the Commissioners for Oaths (Amendment) Bill 1993; the Imports and Exports (Amendment) (No. 2) Bill 1993; the Public Health (Amendment) Bill 1993; the European Economic Interest Grouping Bill 1993; the Social Security (Insurance) (Amendment) (No. 2) Bill 1993; the Employment (Amendment) (No. 2) Bill 1993; the Civil Jurisdiction and Judgements Bill 1993; the Domestic Violence and Matrimonial Proceedings Bill 1993; the Maintenance (Amendment) Bill 1993; the Gibraltar Merchant Shipping (Registration) Bill 1992; and the Gibraltar Merchant Shipping (Safety, etc) Bill 1992.

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

MR CHAIRMAN:

Before we go ahead with the Committee Stage I think it will speed matters if, as we go along, we read more than one clause at a time. If we find that there is no controversy and if any hon Member wishes to raise any point within those clauses he can do it then and I think we will find that we can proceed much faster without in any way reducing the effectiveness of the House.

THE EUROPEAN COMMUNITIES (AMENDMENT) BILL 1993

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

Clause 3

HON F VASQUEZ:

Mr Chairman, this clause is headed "Amendment to European Communities (Amendment) Ordinance 1992". Having looked at the European Communities (Amendment) Ordinance 1992, it seems clear that section 6 of that Ordinance which it is amending was itself an amending section and was amending section 23 of the Interpretation and General Clauses Ordinance. The effect of drafting the Ordinance in the way which it is proposed to this House, Mr Chairman, has the effect that anyone who reads this and says, "Right, I see there is an amendment to the European Communities (Amendment) Ordinance", pages through, if he can find it, to European Communities (Amendment) Ordinance only to find that that refers to an amendment to the Interpretation and General Clauses Ordinance. It is a very indirect way for this Ordinance to be referring to the amendment which is actually being enacted and for that reason, Mr Chairman, the Opposition proposes that clause 3 be amended, and it is simply a matter of drafting, to read, instead of "section 6 of the European Communities (Amendment) Ordinance 1992 is amended", should read "The Interpretation and General Clauses Ordinance is amended in section 23" and then it carries on "by omitting paragraph (g)". So by way of explanation, Mr Chairman, the fact is that section 6 of the European Communities (Amendment) Ordinance 1992 only amended section 23 of the Interpretation and General Clauses Ordinance by adding a new subsection (g). All we need do now, surely, Mr Chairman, is not refer to the European Communities (Amendment) Ordinance but refer to the Interpretation and General Clauses ordinance which is, in effect, what we are amending. So I would say the proposal is that the Ordinance be amended in that way simply to make it simpler. When somebody reads the Ordinance it is more immediately clear what it is that is being amended, i.e. not the amending Ordinance but the substantive Ordinance which is the Interpretation and General Clauses Ordinance.

MR CHAIRMAN:

Could I have it written down on paper.

HON F VASQUEZ:

Yes, I have got it here in my handwriting, Mr Chairman.

MR CHAIRMAN:

It does not matter, in your handwriting will do.

HON F VASQUEZ:

It is very simple. All I am suggesting is that the words "Section 6 of the European Communities (Amendment) Ordinance 1992" be substituted by the words "Section 23 of the Interpretation and General Clauses Ordinance". I have in front of me both the 1992 Ordinance and the Interpretation and General Clauses Ordinance from which it becomes very clear what I am saying, Mr Chairman.

MR CHAIRMAN:

Is the Attorney-General fully aware of what the amendment is?

HON F VASQUEZ:

By way of clarification, Mr Chairman, the point is only this. The European Communities (Amendment) Ordinance introduced a new sub-section into the Interpretation and General Clauses Ordinance. It is our view that if that new sub-section is going to be amended, it should be amended not by amending the European Communities (Amendment) Ordinance but by amending the Interpretation and General Clauses Ordinance which is the Ordinance in which the provision, being amended now, rests.

MR CHAIRMAN:

Have you got to delete anything at all?

HON F VASQUEZ:

Yes, Mr Chairman. What needs to be deleted, in my submission, firstly is the heading of the section, instead of reading "Amendment to European Communities (Amendment) Ordinance 1992" it should simply read "Consequential amendments". Then the clause should begin, instead of "Section 6 of the European Communities (Amendment) Ordinance 1992", as "Section 23 of the Interpretation and General Clauses Ordinance".

MR CHAIRMAN:

The point is we have to fit it into the Ordinance now and you have to be very specific of where you want to put it.

HON F VASQUEZ:

The proposal is this, Mr Chairman. Delete the words "Section 6 of the European Communities (Amendment) Ordinance 1992" and introduce the words "Section 23 of the Interpretation and General Clauses Ordinance".

HON CHIEF MINISTER:

Mr Chairman, I think the hon Member should move as he has already indicated, delete the words "Amendment to European Communities (Amendment) Ordinance 1992" and substitute "Consequential amendments" and then delete the introductory paragraph on clause 3 beginning with the words "Section 6" and finishing with the words "new paragraph" at the end of the third line and substitute the new words "The Interpretation and General Clauses Ordinance is amended in section 23 by omitting paragraph (g) and substituting therefor the following new paragraph", and that we would accept.

MR CHAIRMAN:

Will you put it down in writing exactly as you want it, as it is going to fit into the Ordinance.

HON F VASQUEZ:

Mr Chairman, the Chief Minister has it before him in writing.

HON CHIEF MINISTER:

We are prepared to take it as written but for the record he has to say, "I move the deletion of the following words and the substitution of the following". We understand what it is the hon Member is trying to achieve, we agree to accept the amendment and then we have got to make sure that the record shows that it has been drafted so that when the law is printed as having been passed, we have not left a bit of the old section behind.

MR CHAIRMAN:

You have to write down exactly what you want deleted and what you want to fit in in its place.

HON F VASQUEZ:

Mr Chairman, I accept that. I can certainly undertake to do it.

HON CHIEF MINISTER:

In that same clause, Mr Chairman, I propose the deletion of the word "relates" and the substitution of the word "relating" which is simply a grammatical mistake but I did not give notice of this at the First Reading and the line that we have tended to take is that if we notice a grammatical error of this nature rather than wait for the Committee Stage to amend it, at the Second Reading we ask the House to take it as read, as if it had been correctly printed. On this occasion, in fact, we did not notice it in the First Reading so I am bringing it to the notice of the House now and, if necessary, we will have to have an amendment and vote on it. But what we are talking about is in paragraph (g)(ii) which starts off with "relates to matters", I am advised that the English language would be better reflected if it said "relating to matters".

HON P R CARUANA:

Yes, Mr Chairman, in fact, this is a point that we raised during the debate on the Second Reading of this Bill and it is not just a question of grammar, it simply does not make sense because if we see that little (g) begins "where in any Ordinance - "we therefore forget little (i) and it must make sense reading straight into little (ii), "where in any Ordinance relates to matters in respect of which rights" is nonsensical. We can either amend it the way the Chief Minister suggests or alternatively "where in any Ordinance which relates to matters". It is the same thing but we will certainly take that as a grammatical amendment.

MR CHAIRMAN:

I think, to avoid delays, hon Members should note that when they make an amendment they have to write it down as they want to see it in the Ordinance itself. So let us get this right, who is moving the amendment now? Will the hon Member move it or would he let the Attorney-General move it?

HON F VASQUEZ:

Mr Chairman, I am very happy to listen to the amendment proposed by the Attorney-General.

HON ATTORNEY-GENERAL:

Mr Chairman, it looks now, I am advised, that it should read "Clause 3 be amended - (a) by omitting the marginal note thereto and substituting therefor the words "Amendment to the Interpretation and General Clauses Ordinance", and

(b) by omitting everything before the dash and substituting therefor the words "The Interpretation and General Clauses Ordinance is amended in section 23 by omitting paragraph (g) and substituting therefore the following new paragraph -".

HON F VASQUEZ:

Mr Chairman, that is perfectly acceptable.

Question put. Clause 3, as amended, was agreed to and stood part of the Bill.

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

THE CONTRACTS (APPLICABLE LAW) BILL 1993

Clauses 1 to 7 were agreed to and stood part of the Bill.

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

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

THE LITTER CONTROL (AMENDMENT) BILL 1993

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

Clause 2

HON P R CARUANA:

Mr Chairman, in clause 2, the penultimate line, I propose the deletion of the word "could" and addition of an "s" to the word "constitute". Mr Chairman, it is really an amendment on the point that we discussed at the Second Reading. We know what the Government's position on the point is.

MR SPEAKER:

So you want to discuss it again?

HON P R CARUANA:

No, I have got to take the view that we have discussed it already.

HON J E PILCHER:

Mr Chairman, I think as the Leader of the Opposition has said he raised, he said it on the general principles of the Bill and I explained the reasons why we could not support it because it would tend to create problems within that definition and therefore I said on the general principles that we could not support it and therefore we will not support it.

Question put. The following hon Members voted in favour:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The following hon Members voted against:

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

The amendment was defeated.

On a vote being taken on clause 2 the following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon 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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

Clause 2 stood part of the Bill.

Clauses 3 to 6 were agreed to and stood part of the Bill.

Clause 7

HON P R CARUANA:

Mr Chairman, just for the record and once again so as not to take up more of the House's time on this point. The House knows that we object to the transposition of fine to scales, not because we object to that as a housekeeping exercise, we support that as a housekeeping exercise, but we believe that the Criminal Procedure Ordinance which contains the scales themselves, should be changed by primary legislation and not by regulation. It is not a point that I want to tire the House with every time we come to an Ordinance and I am not going to, even at the Committee Stage, vote against clauses just for that reason because we do not actually oppose the clause. What we oppose is something that takes place in another Ordinance and which we do not have in front of us.

Clause 7 was agreed to and stood part of the Bill.

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

THE BIRTHS AND DEATHS REGISTRATION BILL 1993

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

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

THE COMMISSIONERS FOR OATHS (AMENDMENT) BILL 1993

Clauses 1 to 6 were agreed to and stood part of the Bill.

Clause 7

HON F VASQUEZ:

Mr Chairman, in relation to clause 7, I have a number of points. The first being this, the opening paragraph at present reads - it does not actually deal with the policy at all of the Bill but it is merely a drafting point "The principal Ordinance is amended by inserting after section 6 the following new sections" and new sections 7, 8 and 9 follow. My research, and it may well be that I am wrong, Mr Chairman, but as far as I can judge, there already is a section 7 of the principal Ordinance and the new clause 7 would have to be amended by inserting the words "revoking section 7 and" after the word "by" so it would read "The principal Ordinance is amended by revoking section 7 and inserting after section 6 the following new sections". I may be wrong but certainly my copy of the Commissioners for Oaths Ordinance already has a section 7. I am not aware that it has been repealed. It is the section, Mr Chairman, that creates an offence and imposes a penalty and, as far as I can judge, that creation of the offence and provision of the penalty is now included in the new clause 9, which creates offences. So I think it is necessary to revoke the existing section 7 or we are going to end up with two sections 7 in the Ordinance, Mr Chairman.

HON ATTORNEY-GENERAL:

Mr Chairman, I would be obliged if I could just have a few moments because we are checking this now. But, in fact, I have an amendment anyway. I think there is a spelling mistake in clause 7, as it was and in new section 8. In clause 8(c) delete the word "comes" and insert the word "carries".

HON P R CARUANA:

Yes, that is acceptable.

MR CHAIRMAN:

We will take the first amendment and then we will come to this one.

HON ATTORNEY-GENERAL:

Mr Chairman, that is agreed and we would have to have "by repealing section 7 and" inserted. Mr Chairman, thank you for your indulgence. We have got this written out now.

Question put. Amendment agreed to.

HON F VASQUEZ:

The next point, and I am still really on matters of drafting. The Bill throughout refers to the office of Public Notary. We have Notaries Public. It is a Notary Public not a Public Notary. A Public Notary, I think, is the continental term for the office. In a common law jurisdiction they are referred to as Notary Public and in the plural normally Notaries, we drop the Public in the plural. The proposal is that wherever the words "Public Notary or Public Notaries" appear the words "Notary Public or Notaries Public" be substituted.

HON ATTORNEY-GENERAL:

Mr Chairman, as I understand it, Public Notaries have made representations to legal draftsmen and have suggested that the words "Public Notary" should read "Notary Public". It has been explained that this is following the United Kingdom legislation as a model and upon examination of the United Kingdom legislation, their own oaths taken on appointment and the protocols of appointment, the notaries agreed that in fact it should be Notary Public and the Opposition suggested that it might be that we would wish to change the provisions in respect of Public Notaries. In fact, it should be Public Notaries.

HON F VASQUEZ:

Mr Chairman, it is our understanding that there is no such appointment. That in a common law jurisdiction the office is always referred to as a Notary Public and not a Public Notary. Therefore, we can only make the suggestion. We believe that this Ordinance is actually employing the wrong definitions and that really the term ought to be Notary Public and certainly every notary in Gibraltar calls himself a Notary Public and not a Public Notary.

HON ATTORNEY-GENERAL:

That may be but, in fact, it follows the United Kingdom legislation, they are called Public Notaries.

MR SPEAKER:

So what is the position, what does the Attorney-General feel about it? What is it going to be?

HON ATTORNEY-GENERAL:

Well, I am not one, but I would say this, Mr Chairman, a Public Notary knows who he is, a Notary Public knows who he is but the correct expression is Public Notary.

HON F VASQUEZ:

The proposed amendment is withdrawn.

HON P R CARUANA:

Mr Chairman, during the Second Reading I asked whether the Government could clarify for me whether the intention and the purpose and the effect of clause 7 - I could have raised this point in relation to clause 4 but I omitted to do so - was simply a desire to record and register and there was no suggestion that this clause empowers the appointment of notaries. My recollection is, and I think the Chief Minister confirmed, that it was the former. In other words, that this was just to create a register that Notaries Public and Commissioners for Oaths would continue to be appointed as they are presently appointed. Mr Chairman, I think the record should show that the Chief Minister has nodded his head indicating the affirmative otherwise the nod will not appear in Hansard.

HON CHIEF MINISTER:

Let me nod verbally then. The Opposition Member is correct. What I did say, of course, in addition, was that following the explanations provided by the Hon Mr Vasquez, we would certainly look at the methodology of appointment given what he had told us about the Archbishop of Canterbury so that when we had brought it to this House we were looking at registering and not introducing a new method of selecting people.

HON F VASQUEZ:

Mr Chairman, before I get down to tabling a specific proposed amendment, I would be grateful perhaps if the Chief Minister would then confirm that it would not be his intention at this stage to allow amendments to this Ordinance to allow and to clarify the point that the Registrar, in fact, is in a position to appoint as well

as to register Notaries. Is the Chief Minister saying then that although he is considering it, for the moment he does not want to make specific legislative enactment to the effect that the Registrar may appoint Notaries?

HON CHIEF MINISTER:

That is correct because between the time that the matter was pointed out to us and the second Reading and the time we have come back, apart from our friendly conversation with the Minister of State with responsibility for Gibraltar in the Foreign Office, we have not really had a great deal of time to consider the consequences of allowing the Registrar to appoint or not appoint people. But I think it is something we need to think about and maybe move in that direction but we have not yet taken a policy decision on it.

HON F VASQUEZ:

Mr Chairman, if you will bear with me, I have prepared various proposed amendments to this end. If I can just confer with the Leader of the Opposition to determine whether in fact we intend to pursue these proposed amendments. No, we are not going to proceed with these proposed amendments.

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

Clause 8

HON P R CARUANA:

Mr Chairman, on clause 8 we have got the Attorney-General's amendment which we agree with and he might, purely as a sort of typing correction, actually like to put the words 'Public Notary' with capital P and capital N. I think it appears in capitals elsewhere in the Bill.

HON ATTORNEY-GENERAL:

The amendment, Mr Chairman, to new clause 8A(2) would be after the words "mistake in" the words "entering information or inserting in" are inserted. I think the hon Member agrees with that.

Clause 8, as amended, was agreed to and stood part of the Bill.

Clause 9 was agreed to and stood part of the Bill.

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

THE IMPORTS AND EXPORTS (AMENDMENT) (NO. 2) BILL 1993

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

Clause 2

HON H CORBY:

I would like, Mr Chairman, to propose an amendment to section 8(4) and the amendment proposed is to substitute all the words after "under sub-section (2)" by "in writing". As I explained before, this is to take the onus away from the junior Customs Officer to take on his own bat an internal search.

HON ATTORNEY-GENERAL:

Does the hon Member know that the rank of the person authorising this is the rank of Customs Surveyor? That is not a junior rank.

HON H CORBY:

I believe that the Customs Surveyor is not in attendance after 5 pm and thus a junior or any member of the Customs Department will call the Customs Surveyor in order to make an internal search of the person concerned and this is then taken in writing the following day when the Customs Surveyor is present. We think, in the Opposition, that the Customs Surveyor must be present and give written instructions there and then when the search is being undertaken.

HON LT-COL E M BRITTO:

If I can go further, Mr Chairman. What we are trying to avoid is the circumstances where, say, in the early hours of the morning, a person is suspected of having drugs concealed and only suspected, there is a junior officer on duty, he picks up the phone, he calls a senior officer who on the phone gives the authority and then the next day confirms it in writing. We think that the matter is important enough to warrant the physical presence of the Customs Surveyor and assess the situation for himself before making a decision whether an internal search should be carried out.

HON CHIEF MINISTER:

Mr Chairman, we are not prepared to accept this amendment. Frankly, at the end of the day, I think as far as we are concerned, our role in bringing legislation to this House is one where we take political responsibility for policies. We have to have a certain amount of confidence that people are doing their jobs responsibly and we can put whatever we like, what are we going to do then, send somebody to survey the surveyor to make sure that the surveyor is there and not somebody else? Whatever we put in the legislation, if people are not discharging their obligations in a responsible manner, there is no way the members of the Government or the members of the alleged legislatures can be on top of whether public servants are doing what is required of them. This is their initiative, they are concerned about the drugs problem in Gibraltar. They believe that with the present facilities that they are able to make use of under the law as it is at present, they cannot give the protection to our young people and to our country against this menace of drugs that we want them to give. Frankly, at the end of the day if the people in the service come back to the Government and say to the Government, "You want us to do a job, you have to give us the tools to do the job and these are the tools we need". Then what I said at the general principles of the Bill, we are doing what they have asked us to do because we are satisfied that the people who are asking us to do this are people who are genuinely committed and they feel they need this. It may be that it is not word perfect, it may be that it creates a loophole which could allow people to exploit this and attack the civil liberties of an individual. I suppose there is virtually no piece of legislation that we cannot say something similar about. Frankly, it would be wrong of us to say that we are going to tie the hands down of the Customs Surveyor and say, "If somebody comes in with drugs in his body at 2 am, unless they can find you somewhere in Gibraltar, even if they suspect the guy and unless you can go there physically...." What is it then that we want to make it more difficult for the Customs to catch the person than for the person to be able to smuggle the drug? No, that is not what we want. We are all committed here against that fight. One always hears stories of whether it is Customs or whether it is Police, in a small community like ours, having it in for somebody and we know that some of those stories may be true, some may be exaggerated and some may be untrue. All I can say is that we would not be willing to accept an amendment to this, frankly, which might frustrate what we are trying to do in the first place and we are not confident that there is a need to introduce that kind of safeguard that the Opposition Member is looking for. What I can say obviously is that given the concerns that the Opposition have expressed in this House, we will impress upon the Collector of Customs that he should monitor very closely the operation of the new powers that we are giving and

that we would expect to be regularly informed of how it is happening because, of course, if it is happening in a way that it should not happen, the Opposition Members will have the opportunity of raising the matter in the House and saying, "I want to know why on such and such a date somebody was stopped by a junior officer". And if we feel that the experience shows that the powers that have been created have been abused beyond what they were intended, then we are prepared to come back and do something about it.

HON P R CARUANA:

Mr Chairman, let me just ask the Chief Minister whether I correctly heard him to refer to this House as an alleged legislature.

HON CHIEF MINISTER:

Yes.

HON P R CARUANA:

Perhaps he would like to explain that phrase in due course.

HON CHIEF MINISTER:

I can explain it straightaway. All the powers to make subsidiary legislation which the Government has have been granted by this House.

HON P R CARUANA:

Alleged legislature suggests that this House is not really a legislature.

HON CHIEF MINISTER:

No, I did not use the word alleged.

HON P R CARUANA:

That is what I thought I had heard him say. It is already the policy of this Bill to require this right to exercise internal body searches to be exercised by a senior officer, namely, Customs Surveyor. Presumably, because the draftsman, in my opinion quite correctly, considered that something as sensitive as this should not be exercised on the discretion of a junior officer. That is why the law says

that it must be authorised by a senior officer. All that we are saying is that we have got to legislate that policy. It is already the Government's policy and not ours, that this power be exercised by a senior officer. We must legislate that power in a way which ensures or makes it clear that the legislature has done all that it can possibly do to ensure that actually the senior officer is the one who exercises his judgement and not the junior officer because if we are going to allow the junior officer to exercise his judgement, we might as well give the power to the junior officer in the first place. All we are saying is that sub-section (4) already says that the Customs Surveyor has got to give it orally. Giving it orally means that somebody will telephone him and he will not, in fact, address his mind to the fact. One cannot communicate fact on the telephone. Incidentally the Chief Minister is aware that one of the consequences of this amendment is that it is no longer limited to people coming into Gibraltar. [HON CHIEF MINISTER: I know that.] This is a power that can be exercised against us all, not that it would be, it would be an abuse of the exercise against us all in Main Street. Therefore questions of civil liberties do arise and whilst we are all committed to the fight against drugs, I think when we legislate against the fight against drugs we have got to at least ensure that we provide adequate protection of civil liberties which are no less important than the fight against drugs.

HON CHIEF MINISTER:

Mr Chairman, I am not disputing that the protection of civil liberties is perhaps as important, perhaps it is not because, in fact, as far as we are concerned, if there is a conflict between protecting civil liberties and protecting Gibraltar against drugs then protecting Gibraltar against drugs takes a higher priority. If that protection can be achieved without a conflict then that is fine. I do not accept the logic of his argument that if the Surveyor is at home they can phone him up and he can say orally over the phone, "Go ahead and do it" but if he has to do it in writing, well if he has to do it in writing he scribbles it on a piece of paper and puts it in the fax machine and he still does not have to leave his home. So it is irrelevant, from that point of view. What we are saying is we have not put in Customs Surveyor. The hon Member is wrong if he thinks that we, in order to protect civil liberties, told the Customs, "We agree to what you want to do but only at the level of Customs Surveyor". They proposed Customs Surveyor. They said, "We want it to be done by a person with that rank who will have the experience to be able to make that kind of judgement". So they suggested it and therefore what we are saying is we are not prepared to accept, at this point in time in the House, changes which could have the effect, as far as we are concerned, of making it more difficult for them

to do the job so that at the end of the day we go back to them and we say, "Here is the amended Bill" and they say to us, "You have now constrained how it needs to be done to an extent that the guy that wants to get the drug in will now be looking at how, because the Surveyor is not there at 4 am" - and certainly we are not going to be employing more Surveyors - "then everybody will go in at 4 am because of the difficulty of getting the guy at 4 am". I do not even know how it is intended to operate this, frankly it is not my job to know that. All I can tell the House, in trying to reassure the Opposition Members, is that I will make sure the Collector of Customs is conscious of the concerns of the House that this should not lead to an unnecessary infringement of civil liberties because I imagine the civil liberties of the drug trafficker is not going to give any of us sleepless nights. It is the civil liberties of the innocent that we are worried about. In order to be able to reassure hon Members the operation of this should be carefully monitored so that it is seen to be doing what it is intended and not more than that. If we find that it is going wrong then we are prepared to do something about putting it right but I am not prepared to do something about it in anticipation that it might go wrong because the effect of doing that might mean to make it more difficult for the officers to do their job and what we have done is draft it in the way they advised us they needed drafting.

Question put. The following hon Members voted in favour:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The following hon Members voted against:

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

The amendment was defeated.

HON H CORBY:

Mr Chairman, in the same clause, I propose the deletion of all the words after "(b)" and the insertion of "informed in writing immediately of the reason for the seizure", and to delete sub-paragraphs (a) and (b) which say that if a person becomes violent or is likely to become violent that no reason is given for it or is incapable of understanding. Once the seizure has taken effect, again information in writing should be given for the reason of the seizure.

HON F VASQUEZ:

Perhaps, Mr Chairman, I think it is important to make it clear. The way the Hon Mr Corby has put it perhaps is not clear because I think what he is suggesting is that sub-paragraphs (a) and (b) be deleted and these words substituted. I think really it needs just a little more than that. The paragraph should read, "the person from whom it is seized shall be informed in writing immediately of the reason for the seizure". I hope that is clear, that is the proposed amendment.

HON ATTORNEY-GENERAL:

Mr Chairman, we discussed this the last time and we thought that it was sensible to add a rider to what is required and, of course, one can see the sense of a person being told in writing but there are circumstances where it is not going to be possible; the person could be unconscious, the person could be too ill, the person could become too violent as is said here and if one deletes (a) and (b) one puts oneself in a position of allowing the defence lawyer to say that this has not been complied with because it was not put in writing and then one has an argument about whether the person was fit enough to be told in writing why. What is the harm?

HON F VASQUEZ:

If the requirement of the section is that the Customs Officers shall inform the individual in writing, all they have to do, whether he speaks only Swahili or whether he is unconscious, all they have to do is hand to him an envelope saying, "Herein are the reasons for the seizure". Then the individual in question can avail himself of any rights available to him and simply by merely handing that envelope to him, the officers would have complied with their legal obligations. From our point of view, Mr Chairman, the mischief of which the Attorney-General fears actually is encapsulated within the section as at presently framed because if the Customs Officers say, "We thought

he was too violent" and the person in question can say, "I was quiet as a lamb, I was not violent at all". Then we really do have difficulties because then one starts having an argument as to whether or not in the circumstances the officers in question should have given him the reasons or not. I can think of no possible situations where a person is too violent to slip an envelope under the door to him, if necessary, or to hand it to him or to say, "Look here it is, if you do not understand; get a lawyer but this is why we are doing it". That is all we are saying. One is actually asking for trouble if one puts in the section that in certain circumstances they have to tell him but in other circumstances they do not because then the argument arises as to whether those circumstances prevailed or not. And one may have a situation where a suspect manages to convince the Magistrate that, in fact, he was not violent and that therefore the officers were in breach of their obligation because they did not give him the reasons when they should have done. Surely, let us avoid all that by just requiring the officers to type out a letter saying, "We seized it because we think you have got the prescribed substances in here and we are going to check them out". In my thinking that is the end of the story.

HON ATTORNEY-GENERAL:

Yes, but the Leader of the Opposition said that this is now being extended to every place in Gibraltar. What is the Customs Officer to do, chase somebody down Main Street with a portable typewriter?

HON P R CARUANA:

The Attorney-General can take his task in this House irresponsibly if he wishes, but the fact of the matter is that if that is what he thinks the law requires then yes, he had better give all the Customs Officers a portable typewriter because unless the person is violent or incapable of understanding they must indeed give him the reasons. In relation to the powers of arrest, for example, how does a policeman arrest a person who is unconscious or who has become violent or who is incapable of understanding what is being said to him? All we are saying is that in those circumstances one still arrests but one has still to follow the procedure. One has still got to go through the motion of saying, "I arrest you..." etc. The law does not exempt from the mechanics of the act of arrest in described circumstances and all we are saying is that if one exempts from the established mechanics of doing this, things which are arguable as to whether or not they have happened, one will have an argument as to whether or not they have happened. We want there to be complete certainty. We want people to know when things have been seized for them and why and not to be told, for example, a month later, "Last

month we seized this from you and now we have discovered that it is a prescribed drug". Mr Chairman, on this point, frankly, I do not see that there ought to be ground for this degree of controversy. We all want to achieve the same thing; we all presumably want to avoid the same things and I do not think that we should be hostile about it simply because the suggestion has come from the Opposition.

HON ATTORNEY-GENERAL:

No, it is not that. If, in fact, one substitutes for "Customs Officer", Mr Chairman, a "Police Officer", he does not have to put in writing to a person he is arresting why he is doing it. There can be circumstances, at the time, when that cannot be done. If it is an armed robbery he cannot be told in writing he is arrested. If he thought I was not sufficiently serious I apologise to him but, in fact, I was being completely serious. What it says is that the person will be told unless he is violent or likely to become violent or is incapable of understanding. I cannot see what the point it.

HON F VASQUEZ:

Mr Chairman, if I can just intrude once again. I just want to deal with the point, a rather spurious point, in my view, that the Attorney-General made a few minutes ago suggesting that our amendment was in effect requiring Customs Officers to be running around town with portable typewriters. We are dealing with a situation where suspects have undergone internal examination. I do not imagine for a minute that it is the intention of the Customs Officer to indulge in internal examinations of suspects in the middle of Main Street. We are dealing with a situation where the suspect is going to be detained either in the Customs premises or in a Police Station undergoing an internal examination - in the designated premises under the Ordinance. We are dealing with a situation where substance has been removed from the suspect and either he is going to be told or he is not going to be told that the substance in question is being retained. In our view the possible mischief here is that if the suspect is not told of the reasons for which the substance in question is being retained, it may give cause in the future to suggestions, for example, that the Customs Officers planted the substance in question, or facts of that nature. We all know that in this sort of case exactly these sort of allegations arise and we have to be very careful that we define the powers of the Customs Officers carefully enough to avoid this sort of defence arising. Therefore it is our submission, and I am putting it to the Attorney-General that if the Customs Officers are required, as a matter

of course, every time they conduct an internal examination and any time they find something which there is cause for suspicion and which leads them to retain the substance in question, they must immediately, as a matter of course, tell the suspect, "We have undertaken this internal examination. We found something we suspect to be drugs and therefore we are keeping it and we are telling you now and if you have got difficulty with this you had better get your lawyer working on it straightaway". If we leave a door open to them, if we leave an avenue for them, not to have to give their reasons to the suspect, the fact is that in court the suspect may say, "I was not being violent. I was being threatened by three Customs Officers, I was not in the least bit violent and yet they did not give me the reasons for taking away the substance and I am telling the court that it was planted on me". This is the sort of defence we are going to get and if we want to avoid that we have got to make absolutely sure that on every occasion the Customs Officers, under the powers given to them by this Ordinance, take substances from suspects, they tell the suspect immediately and in writing why they are doing so. It is our view that by doing so one is going to actually make this Ordinance more effective in tapping these people and that is why.

HON LT-COL E M BRITTO:

Mr Chairman, after having consulted with my hon Colleague, would it make it easier for the Government to accept the amendment if we changed it to read in line with section 8(4) so that it read in section 8(7), "is told the reason for the seizure" deleting everything after "seizure" and inserting "orally and this shall be confirmed in writing as soon as is practicable".

HON CHIEF MINISTER:

Mr Chairman, there are two totally different points that have just been made. The point being made by the Hon Mr Vasquez, which as a layman seems to me to carry some weight, is that if one says that the guy was not told because he was violent and one cannot prove he was violent then he may say one failed to comply with the requirements of the law, that is one point. The point about 'in writing' is not a point that I accept. Let us not forget what we are talking about; somebody is being kept under custody for 96 hours waiting for something to happen. What has to happen in 96 hours will happen and unless there is some Customs Officer with a particular aberration for collecting things that nobody would want to collect, I do not see why they should want to keep anything. Frankly, I can see the point the hon Member has made that if there is a risk that by drawing a distinction between the person having to be told or not having to be told, for example, depending on whether

he is incapable of understanding what is said to him, it seems to me that is it that he is incapable of understanding because of language problems? Who judges whether the person understands enough English to understand what is told to him? If one can say to somebody, "I did not tell him because he does not understand English" and the guy says in court, "What do you mean I do not understand English, I have got a degree in English". It seems to me that there is some merit in the argument put by the hon Member in that if what we are going to do is create the potential for litigation for the defence of somebody who has been found with drugs in their body then we certainly want to avoid that. I really honestly think that the point in writing is not one which is required, unless one could argue that if they do not get it in writing they can deny that they were told at all but presumably that is the same as somebody being charged with something in the presence of others. At some stage presumably something will have to go in writing if they are going to be prosecuted. Here we have the Customs deciding, presumably, to have something examined because they suspect that it contains a prohibited drug which is being smuggled into Gibraltar and if that is what they suspect, the fact that they get told, presumably they get told when they are in custody, whether they get told and then confirmed in writing or not, we talking about a machinery which does not seem to me to have the same weight of argument as the argument that they should now be told at all and the justification for not telling them at all is that they were violent and what degree of violence or that they were incapable of understanding; well obviously if the guy is unconscious then he can be told and he still will not know what one has told him. But incapable of understanding can mean that they do not understand the language in which they are being told and given the area that we are talking about, we are likely to have people who are not Gibraltarians and who therefore may not be able to understand English and in those circumstances whether they understand it or they do not, they should be told, I would have thought.

HON LT-COL E M BRITTO:

Mr Chairman, I hope the Chief Minister appreciates that my last point about 'in writing as soon as is practicable' did not go against what the Hon Mr Vasquez had said.

HON CHIEF MINISTER:

No, I am saying it is a different point.

HON LT-COL E M BRITTO:

Yes, but it would still delete sub-paragraphs (a) and (b) about not being told or of being incapable of understanding and so on. It would delete that.

MR CHAIRMAN:

Let us be clear. What amendment does the Opposition want to propose?

HON LT-COL E M BRITTO:

Mr Chairman, if the Government will indicate whether they will accept the amended amendment then we will change it, if not we will leave it as it stands.

HON CHIEF MINISTER:

Mr Chairman, we have, I believe, followed exactly the wording of the UK. All I can tell the House is that I am prepared to reconsider this and therefore I will go back and see if we should do something different from what the UK does and what its implications are before I can really commit myself. I have been half convinced by the argument used by the hon Member and therefore I cannot, on the spot, take the amendment but I am prepared, if necessary, to bring to the next meeting of the House a new amending Ordinance to remove those words once I have been advised why it is in the UK and what would be the consequences, if any, of doing something different here.

MR CHAIRMAN:

So if I understand the Chief Minister rightly, he wants to carry on with the Committee Stage of this Bill, get it through and then, if necessary, he will produce amendments to the Bill itself.

HON CHIEF MINISTER:

And I am quite happy, Mr Chairman, if we decide that there are arguments for not coming back and amending it, to put those arguments to the Opposition Members in writing and take their views on it. It is not a matter of policy, as far as I am concerned. We want to do what is best for the officers concerned and for the law enforcement agencies. I am told that the reason why that is there is because we have followed religiously the UK wording. They must have had some reason for having it like that there. I need to find out what those reasons are and I will inform Opposition Members.

HON LT-COL E M BRITTO:

The reason may be, Mr Chairman, they did not have such a vigilant Opposition.

HON CHIEF MINISTER:

It could well be.

HON F VASQUEZ:

Obviously we take comfort in the words of the Chief Minister and we look forward to receiving those reasons and obviously we look forward to a reconsideration of the Ordinance if, in fact, his research leads him to believe that our amendments are in fact acceptable. For the moment, I think, for the record we want to maintain our amendment, obviously it is going to get voted out but I think we want to persevere.

Question put. The following hon Members voted in favour:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The following hon Members voted against:

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

The amendment was defeated.

On a vote being taken on clause 2, the following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon 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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

Clause 2 stood part of the Bill.

Clause 3

HON H CORBY:

Mr Chairman, on "Amendment to section 9", I propose an amendment to delete the words "not exceeding 96 hours" and the substitution of the words "exceeding 24 hours only if a court order has been obtained". I argued this at the Second Reading of the Bill and I know that the Chief Minister has his word on that one and he is going to vote against. This is comparing with the police arrest in which they only have 24 hours in which to charge a person to be able to hold him for longer periods of time.

MR CHAIRMAN:

Does the Attorney-General understand the amendment clearly?

HON ATTORNEY-GENERAL:

Yes, I do, Mr Chairman. I would oppose that application, 96 hours is the time given for the reasons, without being prurient, that we all understand and, in fact, persons still have their rights. The Leader of the Opposition thinks that they do not I said that they still do have their rights and the amendment to this section is only authorising a person to be detained with the Customs for 96 hours if there are reasonable grounds to suspect that that person has drugs concealed on him. One does not want to be flippant about it, 96 hours is a long time. If I am at the frontier and take out of my pocket what appears to be a tablet, if I swallow it it probably would be thought to be wholly unreasonable for me to be detained for 96 hours if I have taken a single tablet because I could probably say it was a rennie or an aspirin or whatever. If in fact a Customs Surveyor says, "No, you are going to be detained for 96 hours" then I would have the right to say, "Well, would you like to have someone perform an X-ray and then I can go on my way when you decide that in fact I have only taken an aspirin". That gives everybody the protection that the law allows despite what the Leader of the Opposition has

to say about this because if the Customs Surveyor is saying, "I suspect you have taken something much more noxious than an aspirin" then one could apply for habeas corpus, despite what is being said because habeas corpus overlaps judicial review and, in fact, any decision of a person in these circumstances can be judicially reviewed to find out if it was a reasonable decision. If one thinks that is not correct, I can go on and explain it, but one does have rights and if one has a totally perverse Customs Officer who, for whatever reason, says, "You are in for 96 hours", despite what anybody says, one can immediately make an application and have one's application heard. Maybe I should say that under the Police and Criminal Evidence Act of 1984 which gives fairly enormous powers to the authorities particularly, for example, under the Prevention of Terrorism Act where one can be detained for five days and one is kept in very secure accommodation at Marylebone Police Station, it specifically says, "The Police and Criminal Evidence Act 1984, however, specifically preserves the right of a person detained to make an application for a writ of habeas corpus or other prerogatory remedy and in appropriate cases, such a remedy could be sought". So even in the most serious cases where the police are investigating what they think are the most heinous crimes, a person's right enshrined since Magna Carta - and that is a long time ago now - is that one is always able to go to a judge. The words were these, and they have been recently supported again since the days of the Star Chamber, "No free man shall be arrested or imprisoned or deceased or outlawed or exiled or in any way destroyed, neither will we set forth against him or send against him except by the lawful judgement of his peers and by the law of the land; to no one will we sell, to no one will we refuse or delay right or justice". The armoury of the courts, habeas corpus, the greatest and oldest of all prerogative writs, is available to the person sitting on the toilet.

HON P R CARUANA:

Mr Chairman, the suggestion that the Attorney-General of Gibraltar considers that the civil liberty of the innocent Gibraltarian is adequately protected against being unfairly and improperly detained for 96 hours by instructing his solicitor, if he can afford one, to make an application to court on a writ of habeas corpus is, frankly, worrying. Because even if the average person in the street knew of his rights to apply for a writ of habeas corpus, had the financial resources to engage a lawyer and did not have to wait the several weeks that it takes to obtain legal aid, the chances of it being done rapidly enough to protect the innocent Gibraltarian from an abuse of this power to detain him for 96 hours, is meaningless in practice. We do not object to the detention of people for 96 hours as part of the fight against drugs and it is equally surprising that in answer to the point made by my hon Colleague, Mr

Corby, the Attorney-General presumably in a further attempt to display his considerable powers of wit, goes on to explain why the 96 hours is necessary, as if it was the 96 hours that we were objecting to. He can have his 96 hours, he can fight against drugs. Having a Magistrate authorise that detention, as he must do to the police in the vast majority of cases, does not deprive or detract from the effectiveness of this provision unless he wants to have this available to him in circumstances in which he knows that a court would not sanction it and that is precisely what I am trying to protect innocent victims of this sludge provision from. I think it is disingenuous for the Attorney-General to answer the point that the power of detention beyond 24 hours should be sanctioned by a Magistrate, to defend himself or to argue against that suggestion by explaining why the 96 hours is necessary. Well, we all now know why the 96 hours is necessary, we all agree that 96 hours is necessary, we are all happy that the power should exist for 96 hours, all we are saying is that the exercise of that power beyond 24 hours ought to be sanctioned by a Magistrate. That takes all of five minutes to obtain in a Magistrates' Court that sits daily and if it does not sit daily, we all know jolly well that the police habitually obtain warrants and orders from Justices of the Peace at all hours of the day or night because the Attorney-General and I, in our professional capacities, both know that that happens all the time. And we just do not see why we cannot, from this House, extend protections of civil liberties to innocent people in a way that does not deprive this legislation of what we all want it to be, namely, effective against those engaged in drug trafficking.

HON ATTORNEY-GENERAL:

We could go on all day, I suppose. Please do not think I am trying to score a point because we do not have the Police and Criminal Evidence Act in Gibraltar. But if one looks at Case's Abbreviated in England one will see that there are powers, not to do with drugs, to detain a person for 72 hours without going to a court anyway, all it requires is a Police Superintendent. I do not really see what the harm is.

HON P R CARUANA:

Well, I find that worrying, Mr Chairman.

HON ATTORNEY-GENERAL:

Well, I have told the hon Member that persons have rights. If he wants to expand the debate to say that a person in Gibraltar does not know his rights, then that would go on to something quite different. Is he really saying that a person in Gibraltar, if he is arrested, would not know

that he is entitled to ask to see a lawyer or to seek advice or to speak to the Station Sergeant and to say, "Why am I here?" and be told?

HON P R CARUANA:

Is that a question to which the Attorney-General wants an answer?

HON ATTORNEY-GENERAL:

No.

HON P R CARUANA:

First of all we are not talking about persons who have been arrested. Secondly, even if the right that he claims people have exists - I am not going to argue with him as to whether they do or they do not because for the purposes of my point it does not matter whether they have them or not - in practice they cannot exercise those rights quickly enough. Even if he is right in saying that a person can apply to the court on a writ of habeas corpus. This is a man who is in a cell in Customs House. Physically his chances of getting before high Court Judge on a writ of habeas corpus sooner than 96 hours, the Attorney-General knows as well as I know, are nil. And yes, I say that the average citizen of this community does not know that he has the right to apply on a writ of habeas corpus for the release by a High Court Judge. That is not a criticism of the citizens of this community because I would make exactly the same remark about the citizens of the United Kingdom.

HON ATTORNEY-GENERAL:

Let me just say this, Mr Chairman, not in support of the judiciary but I can get this absolutely checked for the hon Member. In the last seven days I am aware of my own knowledge that a High Court Judge in Gibraltar has been called out after 9 pm on three occasions, not in connection with this but the availability of lawyers to get to judges is very, very well-known in this jurisdiction. Probably, from the point of view of the judges, too well-known because, in fact, the last time it happened was two nights ago and the judge was back in court at 9.30 pm.

HON P R CARUANA:

Well, if it is that easy to get hold of judges why do we not put the onus of getting to the judge to the Customs Officers rather than to the possible innocent victim of this power? Why are we transferring the burden to him who is least capable of exercising it?

HON ATTORNEY-GENERAL:

If one goes to court every morning of the week it does not matter whether it is Bow Street, Marylebone, Gibraltar Main Street, one will find a million defendants all with solicitors; how does the hon Member think they get them? They get them because they know that they are entitled to ask for a lawyer. And if a person who is detained, use whatever word one wants, on the reasonable suspicion of a Customs Surveyor of being a big time importer of drugs, a stuffer and a swallower, as they are called, does not know about lawyers if one is in trouble then I very much doubt it. By the very nature of their business, trade and calling, they know that lawyers should be available. As far as I know, the top liners in America always retain about one-third of the proceeds for their lawyer when they are in trouble. They know exactly how to get a lawyer.

HON P R CARUANA:

It is red herrings like that, Mr Chairman, that make it obvious that the Attorney-General is either not listening to what I am saying or does not understand the simple point that is made to him. I am not seeking to protect the professional drug runner who knows his rights and has an army of lawyers to assist him, I am talking about the innocent person. I am not talking as he insists on always talking about the professional drug smuggler caught at the border because the Attorney-General has presumably not already forgotten that this section now applies to all of us in the whole of Gibraltar. We are not talking about people who come into Gibraltar bearing drugs. This power is given against every citizen of this community, in every part of Gibraltar at all hours of the day or night. And I say that it is unnecessary to give the Customs Officers the power to detain a Gibraltarian in the Piazza and keep him for 96 hours without a court order when it is easy, as the police have to do, to go the very next morning to the Magistrate and say, "We have arrested this chap overnight. We want to keep him in for 96 hours. Will you authorise it?" Because it seems to me that his apparent and inexplicable unwillingness to take that simple precaution unnecessarily exposes innocent people in this community to abuse of this legislation by some present or future Customs Officer who might be minded to abuse it. If the protection that I am seeking for the people of this community had the effect of depriving this legislation of effect in the fight against drugs, then we could weigh in balance what is more important - the fight against drugs or the protection of innocent victims. As what I am proposing does not have the effect of interfering with the effectiveness of the fight against drugs but does have the effect of protecting the innocent individual, it is not necessary even to put them in the balance because there is nothing to weigh against each other.

HON ATTORNEY-GENERAL:

Well, why does the hon Member think the British legislation, when I mentioned the.....

HON P R CARUANA:

I am not sitting in the Houses of Parliament, Mr Chairman, I am sitting in the House of Assembly of Gibraltar. I am not concerned with the citizens of the United Kingdom.

HON ATTORNEY-GENERAL:

Does he want to make another speech?

HON P R CARUANA:

No, I have finished.

HON ATTORNEY-GENERAL:

Why does he think they have, in fact, 72 hours without going to a court out of the Police and Criminal Evidence Act?

HON P R CARUANA:

This is something that he has produced and I do not know what Ordinance he is talking about.

HON ATTORNEY-GENERAL:

Is he suggesting that it is not correct?

HON P R CARUANA:

I would have to read it to see exactly in what circumstances and with what protections and with what mechanisms and with what rights to the arrested party; whether indeed he is an arrested party or, as we are talking about, he is just a person who is kept in custody. This person is not even arrested.

HON ATTORNEY-GENERAL:

The Police and Criminal Evidence Act in the UK gave more rights to the citizen than they have ever had before, everybody can see that. It was the pain of the Metropolitan Police life when it first came in. But they still would

allow it to keep people for 72 hours. I will get him a copy of the Act and I am not being facetious.

HON P R CARUANA:

My last intervention on this matter, Mr Chairman, because my views are clear and the Attorney-General's views appear to be equally clear. If his last and only argument on my proposed amendment is a reference to some unexplained and certainly I do not know about it, English statute, what he is really saying is that he cannot deal with my arguments on their merits and he is now resorting to that last argument of recourse which is always wheelbarrowed into this House when somebody does not want to deal with an argument on its merits, which is "Well in England they do this in some other situation so why should we not do the same here?" Either the Attorney-General considers that there is merit in what I am saying or he considers that there is no merit in what I am saying and that certainly is a matter entirely for him. Presumably he does not think that my argument ought to be disposed of simply by reference to some English statute which does not even deal with the same areas that we are concerned with here.

HON ATTORNEY-GENERAL:

I have spent all my life in an advisory system. I do not think that what a person says is without merit. The question here is whether the hon Member has established, as far as the Government is concerned, a sufficiently good argument to say that our proposed amendment is not the proposed amendment which will be good for the ongoing and determined fight against drugs.

MR CHAIRMAN:

Well, I think it is time for me now to put the amendment.

Question put. The following hon Members voted in favour:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The following hon Members voted against:

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

The amendment was defeated.

On a vote being taken on clause 3 the following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon 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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

Clause 3 stood part of the Bill.

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

THE PUBLIC HEALTH (AMENDMENT) BILL 1993

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

Clause 3

HON F VASQUEZ:

Mr Chairman, as is clear to this House from my intervention at the Second Reading of this Bill, we in the Opposition are opposed to this Bill generally because we are opposed to the policy of section 272A which clause 3 of this Bill is amending. Having said that though, I think it is our duty to make sure that any legislation passing through this House has efficacy; that it actually does what it intends to do. On that score I would merely wish to point out the provisions of new section 272A, sub-clause (6), which reads, "For the purposes of this sub-section 'owner' means the person from whom the occupier has let the hereditament". That has to be a drafting error, that surely should read, "For the purposes of this section". A subsection is only that one sub-clause (6). I think it is referring to the whole of section 272A in which various references to "owner" appear, otherwise that statutory provision is meaningless.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I could have just a few seconds to consider that particular suggestion, Mr Chairman.

HON F VASQUEZ:

Mr Chairman, if it helps Government Members, I have a copy of section 272A here because it is obviously not in the printed edition of the laws.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think we can accept the amendment which I think the hon Member is presumably going to propose.

HON F VASQUEZ:

It is a typographical error really, to delete the word "sub".

Question put. Agreed to.

Clause 3, as amended, was agreed to and stood part of the Bill.

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

THE EUROPEAN ECONOMIC INTEREST GROUPING BILL 1993

HON P R CARUANA:

To save time, Mr Chairman, we can call all the clauses. I had raised a point on clause 10 about whether we needed to do anything to prevent the use of restrictive names. It has been indicated to me privately that that might not actually be necessary. It is not altogether clear to me how that works. I do not know if the Chief Minister will agree with me on that.

HON CHIEF MINISTER:

The only explanation I have is the same one as the Opposition Member has already been given, that it is already covered.

HON P R CARUANA:

I was hoping that the Chief Minister could give me the actual section but it does not matter.

HON CHIEF MINISTER:

In the Schedule the provisions are in sections that are listed in the first item of that Schedule which are sections 17(1)(c) to (e); (2), (3), (4) and (6). So those areas of the Companies Ordinance which refer to restrictions in the use of name presumably is included in those sections applicable in the case of this Ordinance.

HON P R CARUANA:

In any case, provided that the Government Members and the law draftsman are satisfied that that is the case I am happy. I do not know offhand whether the name provisions are included in that but we could deal with that, if it were not, at a future meeting.

MR CHAIRMAN:

So if the Leader of the Opposition is happy we will go from clauses 1 to 19.

Clauses 1 to 19 were agreed to and stood part of the Bill.

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

Schedule 4

HON CHIEF MINISTER:

In Schedule 4, Mr Chairman, we have got two errors. In item 1 the figure "9" should be replaced by the bracket missing around the letter "e", we have got "9e)" without the bracket between the "9" and the "e", it is just that it is not in the printed version. In item 3 the word that appears as "changes" should in fact be "charges".

Schedule 4, as amended, was agreed to and stood part of the Bill.

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

THE SOCIAL SECURITY (INSURANCE) (AMENDMENT) BILL 1993

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

Clause 2

HON P R CARUANA:

Mr Chairman, I think both sides of the House discussed at length the principles of this Bill at the Second Reading. Our only objection to the Bill, which really is an objection to the whole Bill, is that this is going to be done by regulation and not by legislation so really I do not think there is anything that we can add at the Committee Stage.

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

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

THE EMPLOYMENT (AMENDMENT) (NO. 2) BILL 1993

HON CHIEF MINISTER:

Mr Chairman, can I suggest that we skip that one and go on with the rest and then we will take that one after lunch.

HON P R CARUANA:

Mr Chairman, I think I am now in a position to proceed. During the lengthy discussions we had earlier this morning, on I do not remember what, whilst drafting was taking place, I was reading the Bill. I am quite happy to proceed with the Bill.

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

Clause 5

HON P R CARUANA:

Mr Chairman, as I understand it from my own reading and from what the Chief Minister said during the discussion on my point of order earlier, I think the effect of this clause on this amending Bill, is in effect that the repealing of sections 14, 20, 21, 22 and 23 sweeps away all the existing mechanisms in the Ordinance on the regulation of work permits and the issue of work permits and the requirement of work permits, and replaces it with this section 20 which basically gives the Government, by regulation, to establish a new regime.

HON CHIEF MINISTER:

Or the same one. That is to say, what it does is, Mr Chairman, that it makes it possible for something that is included in one of those sections to be replaced by a regulation to deal with the same situation, but maybe in another way, under one of the regulations that come under section 20.

HON P R CARUANA:

Absolutely. We know that there is going to be successive regulations because we cannot be unregulated in this area unless the Government Members take the view that the mechanisms that already exist with the Employment and Training Board and other legislation that exists is sufficient. The only point that I would make is this, that Government Members.....

MR CHAIRMAN:

Could I just draw attention to the Leader of the Opposition that the Minister for Education, Employment and Youth Affairs has a proposed amendment. So I suggest you talk generally about it. I think for the sake of procedure if the Minister first proposes the amendment and then we can carry on.

HON J L MOSS:

Mr Chairman, I move that clause 5 be omitted and replaced by the following new clause:

"Repeal and replacement of section 20.

5. Section 20 of the principal Ordinance is repealed and replaced by the following new section -

"Requirements in respect of work permits.

20. (1) The Director may require in circumstances prescribed by regulations and in relation to workers prescribed by regulations -

- (a) notification to him of any employment vacancy before that vacancy may be filled;
- (b) that an employer obtain permission from the Director prior to employing any workers (such permission hereinafter called "a permit").

(2) Regulations made for the purposes of sub-section (1) may -

- (a) make different provisions in respect of different circumstances and different categories of workers;
- (b) prescribe conditions to be met by employers and workers in respect of the filling of a vacancy;
- (c) prescribe conditions to be met prior to the Director granting a permit;
- (d) prescribe conditions to be met by an employer or a worker whilst the former is employing the latter under a permit;
- (e) prescribe the circumstances in which the Director may, in his discretion, refuse to grant a permit;
- (f) make provision for the period of validity of a permit and the circumstances in which and the period for which a permit may be renewed;
- (g) provide for the circumstances in which the Director may revoke a permit and the procedures to be followed in respect of the intention to revoke a permit and the revocation of the permit;
- (h) provide that a failure to comply with the requirements of any regulation, is an offence under this section;
- (i) generally make provision in respect of notification and filling of vacancies and matters related to permits;

Provided that no provision shall be made in regulations under this section which is contrary to the requirements of Regulation 1612/68 of the European Community."

HON P R CARUANA:

Mr Chairman, on a clerical but I think important point, my hon Colleagues in the Opposition have complained that they have had no written notice of this amendment. I think that copies of the letter have not been circulated to all members of the Opposition and I think it is good practice that it should be, although a copy was given to the spokesman on employment.

MR CHAIRMAN:

I hope that the Government will take note of that.

HON P R CARUANA:

As I was saying, Mr Chairman, and I think Hansard will already record what I said prematurely before so I will just carry on. The amendment to section 20, let us call it the new section 20, as now proposed in the amendment, is headed "Requirement in respect of work permits". Mr Chairman, Government Members know that within the bounds of reasonableness, which they now know does not extend to the 1st July law, they have our support for what we euphemistically call 'practical measures' to protect the local in the job market. I also take cognizance of the fact that some of these practical measures have to be Community law proof in the sense that they cannot be discriminatory in a way which destroys their basis. I am not entirely familiar, I have to admit, with the detailed provisions of Regulation 1612/68 of the European Community but.....

HON CHIEF MINISTER:

That is the regulation that grants to Community nationals the right to travel for the purpose of taking up employment. There are other regulations that deal with people wanting to move to study or settle but this one is the one that deals with employment.

HON P R CARUANA:

I am obliged to the Chief Minister. My point is this, the proposed heading of new section 20 reads "Requirement in respect of work permits". The principal Ordinance in which we are is the Employment Ordinance. An amendment that I

would introduce if the position was not crystal clear is whether Government Members believe that section 20, as now proposed, would give them the right to subject people - how can I put it without giving too much away - who do not presently need a work permit would, perhaps, by these new regulations, be put into the net with people that do need a work permit. In other words, does this section enable the Government, by regulation, in effect to require locals to need a work permit before obtaining employment or before one has got to notify a vacancy before one can employ even a local? In other words, does this care that has to be taken to make it Community law proof, extend in effect to extending the sort of provisions that are hitherto been contained in the Employment Ordinance for non-residents? Will it involve in effect extending equivalent or substituted measures of the same kind, namely requiring a work permit, to Gibraltarians and residents of Gibraltar? If the answer to that were no, I would propose an amendment. I do not formally propose it yet, Mr Chairman, it is just so that the Chief Minister knows before he rises the sort of amendment that I would propose. In line 3 where it says "and in relation to workers prescribed by regulations" I would add "and who require a work permit under this Ordinance". So that we understand that the whole enabling regime is limited to regulating all these issues in respect of people who currently need a work permit and not in respect of people such as the Chief Minister and I who presently do not require a work permit and Gibraltarians in general.

HON CHIEF MINISTER:

I am not entirely sure what that would do. Let me say that what the enabling provisions will permit is a definition of who requires a work permit or does not require a work permit without having to introduce such a definition by amending the principal Ordinance. Certainly the definitions we have got at the moment, which have been periodically changed, are still not word perfect and therefore the only thing that we cannot do is produce a definition of who requires a work permit which would lead to a Community national requiring a work permit when a native does not require a work permit because that would be contrary to Regulation 1612/68. But certainly if we have, as we have already, let me say, a requirement that there has to be prior notification of an employment vacancy - and that would be done under this power - that is not limited to the potential candidate having to be somebody that requires a work permit. One cannot say to an employer, "If you are going to employ somebody who requires a work permit, you have to notify the vacancy but if you are going to employ a local, you do not have to notify the vacancy" because until the vacancy is notified we do not know whether it will be granted the work permit because one of the conditions for not granting the work permit is that there

is a local available. The law already allows for conditions to be attached. Let me give Opposition Members an example of the practical on the ground things. We have had a recent request to the Employment and Training Board for somebody to be employed as a mason in a construction company and there are five unemployed Gibraltarian masons who have been sent; none of whom has been found to be suitable. The ETB has then turned down to the employer and said, "Obviously your argument is that although these people have got long experience of working as masons in the constructions industry, they are not the kind of mason you want. So you then commit yourself to taking on a local and training him to be the mason like you say you want and then we will give you the permit for the one that you want to import". Already under the existing law, if somebody is trying to get away with it by saying, "No Gibraltarian mason is good enough to be a mason in my construction company" then we can say, "If you claim that the mason you want to import has got a special skill the condition attached to the permit is that you take, in addition to the person for whom you are getting the permit, a local to train to take over". Those things can be done already in the Ordinance but they are not limited to people who require permits because they can be conditions that relate to people who do not require permits. We have looked, for example, at the processing of the thing with a way to say that if there are certain types of employment where manifestly in the 600 we have got out of work there is no scope, then we ought to have the flexibility in the market to be able to say to somebody, "You will get an answer on your work permit within a matter of hours because we know that what you seek is not available in Gibraltar". We are talking about situations where one is bringing in people to do a specialist job, where we already had a provision for special permits under section 26A. So the range of things that we propose to do are things that are already covered by the existing Ordinance but covered in ways which we have found when it comes to putting them into practice, create problems for the smooth functioning of the ETB in protecting labour and also in responding to the needs of the employers which is also part of the function of the ETB. There is no point in stopping somebody employing somebody if there is nobody local here. It is in our interest, rather than have nobody employed, to have a newcomer employed who makes a contribution in tax and who makes a contribution in social insurance. It is balancing these two things that gives us a headache today and we need to be constantly on the lookout that we do not have, in our primary legislation, wording that is challengeable. Since this is something that we have to satisfy the United Kingdom as well, frankly we have thought the best way of getting them to relax about this paranoia they seem to have over infraction proceedings, is to say to them, "There cannot be infraction proceedings because by definition if it is demonstrable that the Community regulation and the Gibraltar regulation are in conflict

with each other, the Gibraltar regulation falls". The enabling power is qualified so if somebody says, "You have used the enabling power to produce something that is in conflict with Community law" then what has been produced would be ultra vires, we would not need to take it any further than that.

HON P R CARUANA:

Mr Chairman, whilst I recognise that this is an area that requires a little bit of flexibility and room for manoeuvre, I think it is true to say that what we are really standing on is on the threshold of a new package of provisions that are going to be designed over the years and I am just wondering to what extent that cannot be done with a degree of consultation in the House. I know that the Government Members, as a matter of policy, consider that they should have a much wider freedom to use subsidiary legislation than appears to be the case. There is a halfway house and that is that regulations made should be subject to a resolution in the House. That in effect enables the Government to move quickly and to draft quickly and not to have to go through three stages of a legislative process but on the other, does give the House an opportunity to express its view on what will be. Maybe, because one does not know what regulations the Government may or may not produce. Government Members know that we object habitually to these enabling powers. Our objections would be eliminated if at least in those areas which were central law, an important body of law such as pensions, employment law, tax laws, etc the regulations were brought to the House in the form of a resolution so that the House at least could express its view on them. As it presently stands, not because we necessarily disagree with what the Government may wish to do with them in due course, as a matter of principle we would not support this section as it now stands.

Question put. 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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

Clauses 5, as amended, stood part of the Bill.

Clauses 6 and 7 were agreed to and stood part of the Bill.

Clauses 8 to 11

HON J L MOSS:

Mr Chairman, there are a number of consequential renumbering to be done as a result of the previous amendment and that just involves sections 8 to 11 being renumbered 6 to 9.

HON P R CARUANA:

I do not think we need to put that to the vote.

Clauses 8 to 11, as amended, were agreed to and stood part of the Bill.

New Clause 9 (old clause 11)

HON J L MOSS:

Mr Chairman, new clause 9 is amended by omitting in both the marginal note and the text the expression "section 14" and substituting therefor the expression "sections 14, 21, 22 and 23".

Clause 11, as amended, was agreed to and stood part of the Bill.

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

THE CIVIL JURISDICTION AND JUDGEMENTS BILL 1993

Clauses 1 to 37 were agreed to and stood part of the Bill.

Schedules 1 to 9 were agreed to and stood part of the Bill.

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

THE DOMESTIC VIOLENCE AND MATRIMONIAL PROCEEDINGS BILL 1993

Clauses 1 to 6

HON F VASQUEZ:

Mr Chairman, there are various amendments that the Opposition would seek to introduce to this Ordinance. The first one simply is this.....

MR CHAIRMAN:

To what section are you referring to?

HON F VASQUEZ:

Clause 3.

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

Clause 3

HON CHIEF MINISTER:

Mr Chairman, I would rather, if we are still on time, not to proceed with the Committee Stage and then we can take a look at the amendments of the hon Member rather than have to take a decision now. So we are prepared to leave the Committee Stage to the next meeting and then we will come back and take that and any other amendments.

HON F VASQUEZ:

Mr Chairman, there is no great political weight in this. We are just mainly concerned to make the scheme of the Ordinances to work properly.

HON CHIEF MINISTER:

So are we.

HON F VASQUEZ:

The point also is that, in effect, the Opposition support the policy and are anxious, as we know, to introduce this legislation. Can we have an indication as to when it is expected that the Committee Stage will be taken?

HON CHIEF MINISTER:

At the next meeting of the House.

HON P R CARUANA:

Really what he is asking is for an indication as to when that will happen?

HON CHIEF MINISTER:

Well, we could have it on Christmas Eve.

HON F VASQUEZ:

Or New Year's Eve. Given the importance of making sure that the Ordinances work properly I personally and I think the Opposition would be minded to accept that suggestion.

MR CHAIRMAN:

At the next meeting.

THE MAINTENANCE (AMENDMENT) BILL 1993

HON F VASQUEZ:

I think the same will apply to this.

HON CHIEF MINISTER:

Mr Chairman, I think we will leave that one too and then we can look at the amendments between now and the next meeting.

MR CHAIRMAN:

So you will do the same as with the other Bill. So this is deferred to the next meeting.

THE GIBRALTAR MERCHANT SHIPPING (REGISTRATION) BILL 1992

HON M A FEETHAM:

Mr Chairman, for the sake of orderly presentation and perhaps expedite the matters to be discussed at this point in time, what I am about to say in the case of the Gibraltar Merchant Shipping Ordinance should be taken as well as far as the Safety Bill is concerned and that is to say that when we presented both of these Bills at First and Second Readings I made an extensive presentation of the policy concerning these two Bills. I also explained in great detail the nature of the Bill and I said at the time that there would be, in our view, considerable amendments that would have to be made at the Committee Stage, which is precisely what we are about to do, for three main reasons. One was that consultation with the United Kingdom continued on the principles of the Bill. There had already been initiated extensive consultation locally with all interested parties and by the very nature of that consultation further amendments would come to light and, of course, because both Bills are substantial pieces of legislation there would be the normal typing errors and printing errors and so on that we would have to deal with. Today, therefore, Mr Chairman, there are in fact substantial amendments that we have to go through. What I can say is, or so I have been informed, that there has been considerable consultation on this matter, particularly with one or two Opposition Members and most of the groundwork has already been thrashed out. It would seem to me, if Opposition Members are happy with the situation, that having already circulated the amendments, that we should proceed on the basis of the amendments as having been read. Undoubtedly, there will be some points raised. I myself on clause 3 of the Safety Bill wish to make a contribution on the policy side. If there is anything that Opposition Members would wish to say at any particular time that I may have to respond to, they should do so at that time. That, I think, would expedite matters otherwise what I am saying is that on this particular Bill there are 62 clauses that need to be addressed; some are a few amendments within each clause so we are talking about substantial groundwork, Mr Chairman. So I propose that we proceed on that basis.

MR SPEAKER:

Would the Opposition agree if we do not read the amendments?

HON P R CARUANA:

Yes, Mr Chairman, you will be relieved to hear that the Opposition does agree. But the Opposition does not agree with the Minister when he says that the amendments have been circulated, they have not. I happen to have a copy

because, as the Minister has said, there has been a wide process of consultation and I think a copy of the letter was at my place when I arrived this morning. But I think it is important, Mr Chairman, that we should keep to the practice which has been that all Members are circulated with a copy of all amendments to all Bills and I think that practice is worth preserving.

MR SPEAKER:

But in the circumstances I suppose we shall have to read the amendments or else how are the other Members going to know about them?

HON P R CARUANA:

Well, Mr Chairman, I suppose that they will take my word for it. Mr Chairman, I think this has been one of the pieces of legislation in which, in a very unofficial sort of way, this House has almost functioned in Committee as larger Parliaments would function in Committee. Admittedly the Committee has comprised of the Leader of the Opposition and the Law Draftsman which is not a conventional composition of a sub-committee of a Parliament. But still the point that I seek to make is that, Mr Chairman, you may recall that on the debate on the Second Reading I had quite a lot to say about these two Bills and really I am gratified and grateful - I think it demonstrates how Oppositions can contribute to the improvement of legislation - that there has been this process of consultation during many, many hours between myself and the Law Draftsman which has resulted in the Government not always agreeing to amend legislation, but that is understandable enough. Many of the comments and observations that I have made in that little committee have been taken on board; are reflected in the amendments which are in this rather bulky letter and that really is the purpose that the Committee Stage of a Parliament should form and it is really a matter of regret to us that because of the composition of this House it is not possible more often and in the case of more Bills, to go into what I would call that sort of constructive process of trying to improve legislation rather than involving the whole House which shows, as we have seen already today, Mr Chairman, how difficult it actually is to propose amendments across the floor of this particular sitting, it is practically impossible. All that said, Mr Chairman, we are willing to take these amendments as read if only to avoid the need for us all to sit here and listen to the Minister while he reads 23 pages of letter. I have been through them; I have been in detail through each of these sections in the Bill; I have a copy of the Bill with the vast majority of amendments to the amendments endorsed on it and the only ones that are not endorsed on it are the ones that I asked for only yesterday and

even those are in the letter, I understand. I am satisfied that the Opposition's input on this legislation has really been as much as we could, in our wildest dreams, have expected to have. There are, nevertheless, three sections upon which I would like to make comments. I say in advance that the Opposition supports this Bill in the sense that we support the re-establishment of a shipping registry in Gibraltar. I suppose I ought to declare a professional interest to that happening but still, I think it is in any event a very useful addition to the stable of products on which Gibraltar's financial services industry can develop. For that reason alone, I think that the legislation is welcome. The product that it now produces is, in our opinion, now a better one than it did when we were considering this at the Second Reading. There are still points that we, if we were in Government, would have done differently and I am going to limit myself to highlighting three such points. But, frankly, I do not think that our views on those three points would justify us withdrawing our support for the legislation as a whole so we will supporting and voting for this Bill at Third Reading. But the sections that I would like to just express some views on, Mr Chairman, are these.

MR SPEAKER:

Can we vote and come to the clauses that you have to refer to. So can the Leader of the Opposition tell me what are the clauses that he is going to start referring to?

HON P R CARUANA:

Mr Chairman, I would be wanting to speak briefly on clauses 3, 5, 7, 38 and 39.

MR SPEAKER:

So now we can call clauses 1 and 2.

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

Clause 3

HON P R CARUANA:

Mr Chairman, I have a conceptual point to make in relation to sub-clause 3(2) which says "The Minister may appoint and remove officers to perform on behalf of the Maritime Administrator such of his functions as the Minister or the Maritime Administrator may direct." The Maritime

Administrator is now, I am happy to say, an officer of the Government. That is to say, he is now an employee of the Government. When we are on the First and Second Readings that was not then the intention. And I just ask myself, and this is the point really which I developed in my mind only last night, whether it is appropriate for a Minister to, in effect, make civil service appointments because this is really what it means. That we have a Minister who is deploying civil servants and I do not think that that is currently the structure of the civil service. Certainly one now knows that Ministers exercise a fair amount of influence on that structure, perhaps moreso than they had done in the past. That is a separate point but this is, I think, the first time that we come across in legislation in this House - I may be wrong and it may not be the first time, it is certainly the first one that I have noticed - where the political Minister gets a direct power to actually deploy civil servants and say "Well, now you go from this department and you go and perform the functions of the Maritime Administrator". It is that because it is not even employing an outside contractor. If it were the Minister's power to delegate it outside the civil service, we would really be in the same realms of privatisation but because he may only appoint officers and officers means employees of the Government, in effect, I think what this means is that the Minister deploys civil servants to discharge the functions on behalf of the Maritime Administrator who is another civil servant. I think that that is quite a change in the relationship between the elected Government and the professional civil service in our political affairs. Sub-clause (3), Mr Chairman, gives the Minister, again by regulation, the power to designate any person to discharge the functions of the Maritime Administrator. Very broadly speaking, Mr Chairman, the Maritime Administrator is the equivalent of the present Registrar of Ships. Government Members know from what I said on the debate on the Second Reading that one of the things that made me nervous about this legislation, although we were going to support it even as it then stood but it has now improved in that respect, was that we could find ourselves with a professional Ship Registry run - I think the intention then was and might well still be for all I know - by a professional American company that runs registries elsewhere and that this was all going to be highly technical and in effect based outside Gibraltar. It is a matter of some regret to me that this sub-clause (3) in effect still leaves the Government with the power by regulation to achieve that because all the Minister would have to do would be by regulation to designate ABC Inc or CDE Ltd to be the Maritime Administrator. Or at least to discharge the functions on behalf of the Maritime Administrator more accurately put which, in effect, would be letting in through that back door the same appointment of a commercial, foreign, alien shipping registrar. So those two sections we would have done differently. I do not suppose that the Government would, at this stage,

countenance amendments to those sub-sections. It is not my intention, Mr Chairman, to propose amendments but because we are generally supportive of the Bill, I do not want the record not to reflect the two or three areas in which really we are supporting the Bill notwithstanding the contents of these two or three particular areas. Mr Chairman, that is all that I wanted to say on that clause 3.

Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4, as amended, was agreed to and stood part of the Bill.

Clause 5

HON P R CARUANA:

Mr Chairman, it is really just a matter for Hansard but I think one has got to be careful not to say 'as amended' in every clause because they do not all have amendments. So it may be easier for Mr Chairman just to say now that all the clauses are as amended if amended.

On clause 5, Mr Chairman, and I cannot remember how I left this with the law draftsman during our meeting but I remember mentioning that we had just passed a Bill, or we will when we complete the Third Reading of the Notaries Bill, that contains an amendment to the Interpretation and General Clauses Ordinance dealing with this in relation to all public registers. Hon Members will recall that I complained that really it was not consequential at all and that what that amendment did was to create a regime for the rectification of all public registers. I think that it is therefore, Mr Chairman, perhaps inappropriate minutes after we create a general regime applying to all public registers, of which this is one, to now have a section that says something slightly different in relation to this register which is inconsistent with what we have legislated and we now have a conflict. What is the mechanism for amending the shipping register? Is it the Interpretation and General Clauses Ordinance mechanism or is it this mechanism? Given that in both cases the power is to the Government, I would urge and suggest to Government Members that we might delete this clause altogether, although that might give renumbering problems. But certainly this does not read as we will legislate when we pass on the Third Reading the Commissioners for Oaths Bill.

HON M A FEETHAM:

Reflecting on what the hon Member has said, as I understand it, in fact, what we have done is to reflect an amendment to the Interpretation and General Clauses Ordinance and I think that meets the hon Member's requirement, I am not a legal mind.

HON P R CARUANA:

No, nor am I going to lose any sleep over this. I think we can overcome the numbering problems. I think it was in the last meeting of the House that we actually skipped a number in a Bill to avoid having to renumber all the sections that came afterwards. But we have just passed a Bill at Committee Stage which says "Whenever there is a public register it may be rectified in cases (a) and (b)". This is a public register covered by that and therefore we now have a statutory provision that deals with all public registers and it is actually different to this one.

HON M A FEETHAM:

We have taken it out from here.

HON P R CARUANA:

So the Government is taking it out from there, somebody could have said that earlier.

HON M A FEETHAM:

We want to listen to what the hon Member has to say first and then we understand.

HON P R CARUANA:

No, the Minister did not say that. I did not realise it had been included in the letter which I have not read.

HON M A FEETHAM:

That is precisely what I have said we were reflecting in the amendment.

HON P R CARUANA:

I am sorry, that is already in the letter of amendments.

HON M A FEETHAM:

Yes.

HON P R CARUANA:

In that case we can move on, Mr Chairman.

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

Clause 6, as amended, was agreed to and stood part of the Bill.

Clause 7

HON P R CARUANA:

Mr Chairman, just for the sake of the record and so that Government Members can put into context what I would like to say about this and, again, I hope I can be brief about it. Clause 7 defines who is qualified to own a ship registered in the Gibraltar Registry. In the very last line of sub-clause 7(3), on page 228 in the Bill, the last person who is qualified is 'a foreign maritime entity'. A foreign maritime entity is defined in Schedule 2 but basically, for the purposes of the discussion that we are now engaged in, it really means 'any foreign entity with legal personality in its country of constitution and which by its constitution has the power to own and operate a ship'. So really any foreign company, any foreign trust, any foreign partnership, any foreign vehicle with legal personality in its own country is now qualified to own a ship registered in Gibraltar. My concern on that, Mr Chairman, and the question that really I ask out loud is whether really we want to throw open the qualification to the point where really we are eliminating demand for another product of Gibraltar's finance centre which is, of course, the corporate vehicle. The fact of the matter is that 100 per cent - well not quite 100 per cent, some of them might have been English companies - certainly 99 per cent of ships that have ever been registered on the Gibraltar Register were registered in the names of Gibraltar

incorporated companies; some of them were incorporated under English companies which was permissible. It just seems to me that by letting in foreign companies we are really depriving the local finance centre of one product to deliver in the context of shipping and with the company comes the corporate finance for the shipping, the bank finance, the mortgage work; all the security documents and it just seems to me risky, that is all. Really it is not a shipping registry point at all, it is a general finance centre point. It just seems to me risky that we might actually reduce demand for one of our products and one of our financial services at the moment which are companies and trusts who own those companies, and financial documentation to those companies, legal opinion because they want to make sure that the Gibraltar company has corporate ability by, in effect, letting in. Really what this will achieve is that we will go from a position in which 99 per cent of ships are presently registered in Gibraltar companies, to the position, hopefully, if this register is very successful, that probably 70 per cent or 80 per cent of new ships that come on to the register will not be in Gibraltar companies. Therefore Gibraltar's finance centre input will really be limited to the ship registry work and we will be deprived of the corporate work. Mr Chairman, let me just emphasise that, of course, the way foreign companies and foreigners got over this was that they simply made the Gibraltar company a subsidiary of their Swedish or their Norwegian or their Greek company. So they can still plug it in. All we are saying is interpose the Gibraltar company on the register.

HON M A FEETHAM:

Mr Chairman, I accept the arguments which have been put over at this point in time. I think we need a little time to reflect because as I understood it, prior to the meeting of the House, our major growth area has been in yachts but yachts will not be able to be registered under that foreign maritime entity. The other point that was put to me was that, in fact, this would attract business that were perhaps not able to come to Gibraltar before because - as I say, I am not a legal expert - if they are in trust or in some kind of institutionalised position elsewhere, they need to meet that requirement elsewhere. This way, at least, we will not be getting the 100 per cent but we will be getting 'X' per cent that before we were not able to. Having said that, what I want to do is, in fact, to clarify that there is a meeting of minds between what the hon Member is saying and myself so I just want to consult with the Law Draftsman just to make sure that that is the intention of the Bill, as I understand it, and not to lose business.

HON P R CARUANA:

Before the Minister undertakes that; I realise that we are in the realms of speculation here. It may well be that this does not happen, this is why I said that I was worried that we were running the risk of. It may well be that as a result of having this ability that one attracts 500 ships that one would not otherwise have attracted and therefore we are going to lose the 500 ships. My experience is, and I am speaking only from my experience which is not inconsiderable in ship registry work, is that no one has ever declined to register a ship in Gibraltar in the past because they needed to use a Gibraltar company. In fact, most people that use an offshore registry logically also want to use an offshore vehicle. I am not saying that there are no circumstances but I would be surprised that somebody wanted to own a ship in an offshore registry through an onshore corporate vehicle because it rather defeats many of the advantages of doing so. We are running a risk. If we leave it in we are running a risk; if we take it out we are running a risk. My personal judgement is that we are running a greater risk to the finance centre as a whole, not to the shipping registry; to the shipping registry we are running a larger risk by taking it out but to the finance centre as a whole, we are running a bigger risk of loss of corporate work, loss of local input on the ownership side by leaving it in.

HON M A FEETHAM:

Mr Chairman, as the hon Member has said, we are in an area of speculation. I think what we will do is to leave it there and review the position as we see the matter developing, say, in 12 months time. If there is representation based on fact we can always come back and amend it immediately.

Clause 7, as amended, was agreed to and stood part of the Bill.

Clauses 8 to 37

MR SPEAKER:

This is where the problem arises, some of them are amended. Will the House accept if I say clauses 8 to 37 as amended or not amended?

HON P R CARUANA:

As amended if amended.

Clauses 8 to 37, as amended if amended, were agreed to and stood part of the Bill.

Clause 38

HON P R CARUANA:

Mr Chairman, here I will be brief, it is a general point. I support the principle of a separate pleasure yacht register. Clause 38 deals with the creation of a separate register for pleasure yachts as opposed to merchant ships, it is on page 254 of the Bill. Really it is just to record the fact that given all the time that has passed, we could have had primary legislation to create the pleasure yachts registration just as we have primary legislation to create the merchant shipping register and really it is just to save the point that I always make that when things can be done by primary legislation we do not support giving the Government power to do it by regulation. Government Members will note that clause 38 reads, "The Government may, by regulation, make provision for" and then it really goes on to say everything that it needs to say so that the Government can create the pleasure yachts registry all by themselves without further reference to this House. If we can deal with that one, Mr Chairman, because I cannot presently identify why I mentioned clause 39.

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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

Clause 38, as amended, stood part of the Bill.

Clause 39

HON P R CARUANA:

Mr Chairman, this really is a very technical point. I am actually towards the end of clause 39 which is page 258. This clause deals with the registration of mortgages against ships done at the ship registry and at the moment Gibraltar's Companies Ordinance requires a mortgage against a ship owned by a Gibraltar company to be registered at the Companies Registry as well. The Companies Ordinance provides, I think it is in section 77 but it does not matter, that certain charges when created by a company registered in Gibraltar will be registered at the Companies Registry and one of the things that needs registration is a mortgage created over a ship owned by a Gibraltar company. The effect of lines three, four and five at the top of page 258 which read "And notwithstanding the provisions of any other Ordinance, no other recording of a mortgage or related instrument shall be required" is, in effect, to amend the Companies Ordinance so that mortgages created by Gibraltar companies in respect of their ships registered in Gibraltar as of now will not require registration as charges under the Companies Ordinance. We regard that as a retrograde step. I think it is unnecessary to the good and effective and marketable functioning of this new product that we are trying to create here. It is a very indirect way of amending the Companies Ordinance. I do not see what constructive it achieves. I know what constructive it destroys and that is that people can no longer by simply visiting the Companies Registry see the charges that affect that company and the liabilities that affect that company in terms of section 77 of the Companies Ordinance because, of course, it will now not be necessary to register a mortgage over a ship. It is a very small point in the context of the Shipping Registration Bill. We do not support those three lines. I am not sure that I can vote to demonstrate that support given that it is basically a proviso at the end of it. I would take that out, I would like to see that taken out, it adds nothing helpful to the shipping registry and in preference we would leave the Companies Ordinance as it presently stands, namely, that mortgages over ships owned by Gibraltar companies should continue to be registered. Mr Chairman, let me just emphasise what an anomaly we are actually creating. Because this Ordinance only deals with ships registered in Gibraltar, if we have a Gibraltar company that owns a ship registered in Jersey or outside of Gibraltar, section 77 of the Companies Ordinance would still be operative and they would have to register that charge at the Companies Registry in Gibraltar. But if a Gibraltar company has a ship registered at the Gibraltar Shipping Registry it does not have to be registered at the Companies Registry. As I say, Mr Chairman, it adds nothing. We would have taken it out, I think it can safely be taken out and should be.

HON CHIEF MINISTER:

Mr Chairman, I am advised that, in fact, the requirement to register the mortgage in the shipping register is already provided in the Ordinance. What this removes is the need to register it in two registers; once in the shipping register and once in the companies register. But obviously if the owner of the ship has a company in another jurisdiction which does not have that requirement and we have that requirement here, then we are making it less attractive to use the Gibraltar company which goes against what the hon Member wanted us to do in the last amendment.

HON P R CARUANA:

I am afraid, Mr Chairman, that the matter is a bit more technical than that. The Shipping Registry is a register of assets, it is not a register of the company that owns the asset, it is really the equivalent of the property register. It is not compulsory to register mortgages at the Shipping Registry, whereas it is compulsory to register charges at the Companies Registry on the basis that the Companies Ordinance says that certain sorts of liabilities of companies ought to be visible from a public register. Furthermore, the registration at the Companies Registry requires many more particulars, of the amount secured, of the description of the document, of the description of the property; many more particulars to be given than does the registry of ships. Really what we are saying is, and this is the case everywhere in England. We are not duplicating the registration because one is the registration against the ship and the other is the registration against the company that owns the ship. One is voluntary and the other is compulsory, there is nothing to require a mortgagee to register his mortgage at the Shipping Registry. It is unlikely, I admit, that they would not but it is not impossible and I have heard of cases in which the mortgage is going to subsist for so short a period of time that the parties have agreed not to present it for registration. The result could be that a mortgage created by a Gibraltar company over a Gibraltar registered ship is registered nowhere and people dealing with that company get no notice whatsoever of it.

Clause 39, as amended, was agreed to and stood part of the Bill.

Clauses 40 to 88, as amended if amended, were agreed to and stood part of the Bill.

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

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

THE GIBRALTAR MERCHANT SHIPPING (SAFETY ETC) BILL 1992

HON M A FEETHAM:

Mr Chairman, do I take it that we will proceed on the basis as stated by me in the previous Bill as far as the procedure is concerned?

HON P R CARUANA:

Yes, but I want to speak only on clause 52.

HON M A FEETHAM:

Mr Chairman, I wish to make a comment on policy under clause 3.

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

Clause 3

HON M A FEETHAM:

Mr Chairman, clause 3 is a complicated provision insisted upon by the Department of Transport in the UK to ensure that Gibraltar honours the undertaking given by the Government that we will employ a suitably qualified surveyor to be, in effect, our Surveyor General or at least that is what they told us it was for. Whilst we did not like the implication that our undertaking could not be relied upon, unless we were bound by statute, we agreed to the provision. We have said before, and I repeat now, it is not our intention to allow ships registered in Gibraltar to operate other than in full compliance with international safety and pollution prevention standards. Whilst we remain content with the amendment, we have become concerned about the intention of the UK towards the survey side of the registry. It would seem that they intend that the Surveyor General's Office should continue to have the same involvement in the operation of the registry as if it was a Category 2 Register. This we find unacceptable. Our intention is that we have set out in amended subclause (3) to manage and operate our own registry to the standards of the red ensign to accept our intentional obligations and our obligations to the United Kingdom. But we do so in our own way with our own people whether they be civil servants or contractors having a first loyalty to Gibraltar and answerable to the Government of Gibraltar who in turn by this Ordinance, are answerable for the conduct of the Shipping Registry to the United Kingdom.

Clause 3, as amended, was agreed to and stood part of the Bill.

Clauses 4 to 51, as amended, if amended, were agreed to and stood part of the Bill.

Clause 52

HON P R CARUANA:

Mr Chairman, the comments that I wanted to make raised exactly the same issues as the Minister for Trade and Industry has raised. Clause 52 deals with the appointment of surveyors and really what I wanted from the Government was clarification of who was going to provide the surveying function under this Bill. From the Opposition our position is quite clear. It will defeat much of the benefit of this Bill to the economy of Gibraltar and to the finance centre of Gibraltar if the surveying of Gibraltar registered ships has to be done by DTI Surveyors in London.

HON M A FEETHAM:

They will never get done.

HON P R CARUANA:

They may or may not get done but really they might as well register in the Port of London for many of the reasons that occur. I am sure Government Members will join me in saying that we are quite happy that our surveyors should be qualified to an equivalent standard as UK surveyors. Indeed, we may wish to recruit UK surveyors and that the standard which those surveyors would be mandated to enforce will be convention standards. But if the secretariat, so to speak, or if the actual surveying is carried out as a function by the Department of Trade and Industry in London it will be perceived - if I can borrow a word from the last general election campaign - by our future customers that they are really dealing with the DTI in London and that they are not dealing with an offshore register altogether or with an open register or with a register operated in an offshore finance centre. Therefore we support the stand taken by the Government although we hope it does not mean that the Ordinance will never actually be placed on the statute book.....

HON M A FEETHAM:

It may well be that.

HON P R CARUANA:

..... but certainly we would support that provided that we agree to engage people of the right qualification and calibre and commit ourselves that they should enforce standards, agreed by the United Kingdom which are convention standards, that they should be people who do that for this registry, for this jurisdiction and that it should not be something which the British Government do for us and on our behalf. Therefore, Mr Chairman, we support the Government; we call upon the British Government, who may read this Hansard in due course, that whilst they are entitled to impose on us a level of standards to apply and whilst they are entitled to ensure that we have the necessary resources to comply with those standards, that they are not entitled to say to us, in effect "We do not trust you actually to do it" - that as a general political point. And as a specific point in relation to this Bill in particular, it will - and I can tell Government Members from experience - seriously and adversely affect the marketability of this register if Swedes and Norwegians and Greeks and shipping owners who have no cultural connection with the United Kingdom at all, consider that they are in the hands of the Department of Trade and Industry in London. Therefore this is an important point if we are to ensure that this Bill can be translated in practice into something beneficial to this economy.

HON CHIEF MINISTER:

Mr Chairman, I will be very brief but let me explain very simply what is the nature of the dispute that we have with the United Kingdom over this matter and I am sure that when hon Members understand it they will realise, frankly, how the United Kingdom in this area appears to be engaged in the same kind of exercise that we have complained with in other areas. We were asked to produce a Gibraltar Survey Agreement between ourselves and the Department of Transport. When this happened in 1992, this was following a circular produced by the Department of Transport under which they informed everybody "There are two categories of registers that have been recognised. Category 1 are those able to maintain internationally agreed standards as defined in the relevant International Conventions and they consist of the Isle of Man, Bermuda and the Cayman Islands. Category 2 are registers not permitted to register passenger ships or any other size of ships over 150 gross tons". That is what left us out of the Category 1 and we were told we had to change our legislation, which we have done now, and we were told we had to have a Survey Agreement. When we asked for what was the Survey Agreement they wanted us to have, we found that the Survey Agreement they wanted us to have to be Category 1 was the Survey Agreement that everybody else had to be Category 2. So we thought there must have been a mistake and they must have sent us the

wrong agreement. They then said, "We are sending you the Category 2 agreement so that it can serve as a model on which to base the Category 1 agreement". We have attempted to use it as a model; for them 'model' seems to mean precisely and exactly a replica of what was there for Category 2. We have now got to the stage that I spoke to Lord Caithness a couple of weeks ago, he insisted that the position was that all we were going to be asked to do was to meet the same standards as the Isle of Man, Bermuda and the Caymans and we then contacted his secretary and said, "Can we please have a copy of the agreement done with these three territories so that we can satisfy ourselves that you are asking us to comply with the same terms?" We were first told yes, we could have it; then we were told we could not have it because they are confidential to the three territories although they are supposed to be identical to what we have to sign. I can tell the House that I have contacted the Prime Minister of Bermuda, the Chief Minister of the Isle of Man and the Chief Minister of the Cayman Islands and they do not seem to be aware that they have got an agreement with the Surveyor General's Organisation. So no wonder the secret. The agreement that the United Kingdom is telling us we have to have to become Category 1 appears to be the agreement that we have to have if we do not become Category 1. That is to say, we have been told if we want to become Category 1 we have to sign an agreement which makes the Surveyor General's Organisation in the Department of Transport, the surveyor of Gibraltar and if we want to stay as Category 2 we have to sign an agreement which makes the Surveyor General's Organisation the surveyor for Gibraltar. The rationale for making the Surveyor General's Organisation for Category 2 is that people who are in Category 2 cannot organise their own registry and we have been bracketed with Tortola and Plymouth and the Pitcairn Islands and Anguila, that is the group we are in. As I understand it, having taken the trouble to go into this at some length from the point of view of what they are asking us and the inconsistencies, is that we have today in our registry a number of ships which are Category 1. What we are being told is, on the one hand, "If you do not sign an agreement with us then you cannot remain, after the 1st January, with those ships on your registry". So we have got really three models not two. We have got the Category 2 which only has 150 tons, the Category 2 with personal to holder ships which require an agreement with them in order to retain the bigger ships. So they have got either to lose the bigger ships or do an agreement with them for the surveys of those ships already there before the 31st of this month but we cannot take any new ones on. And we have got the people who do not make an agreement with them, who can keep what they have and who can take, in competition with others, new ships. We are seeking to be a Category 1 where the three territories that I have mentioned: Bermuda, the Cayman Islands and the Isle of Man are, with our own surveyor in the public

service who would be able to contract Lloyds of London or Den Norske Veritas. What the agreement that they have put to us says is that we have an agreement with the Surveyor General's Organisation in the Department of Transport and the Surveyor General's Organisation can contract Lloyds but not us. That is completely unacceptable and, frankly, I have to say to this House that I feel we have been deliberately lied to by the British Government in an area where they are asking us to comply with the same standards that others are and it is not true. We propose to take this up and therefore I welcome very much the support of the House on this issue because it is an important one. It may not make us all rich but if every single avenue of business is cut off then, frankly....

Clause 52, as amended, was agreed to and stood part of the Bill.

Clauses 53 to 124, as amended, if amended, were agreed to and stood part of the Bill.

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that - The European Communities (Amendment) Bill 1993, with amendments; The Contracts (Applicable Law) Bill 1993; The Litter Control (Amendment) Bill 1993; The Births and Deaths Registration (Amendment) Bill 1993; The Commissioners for Oaths (Amendment) Bill 1993, with amendments; The Imports and Exports (Amendment) (No. 2) Bill 1993; The Public Health (Amendment) Bill 1993; The European Economic Interest Grouping Bill 1993; The Social Security (Insurance) (Amendment) (No. 2) Bill 1993; The Employment (Amendment) (No. 2) Bill 1993; The Civil Jurisdiction and Judgements Bill 1993; The Gibraltar Merchant Shipping (Registration) Bill 1992, with amendments, and The Gibraltar Merchant Shipping (Safety, etc) Bill 1992, with amendments, had been considered in Committee and agreed to and moved that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Contracts (Applicable Law) Bill, 1993; the Litter Control (Amendment) Bill, 1993; the Births and Deaths Registration (Amendment) Bill, 1993; the European Economic Interest Grouping Bill 1993; the Civil Jurisdiction and Judgements Bill 1993; the Gibraltar Merchant Shipping (Registration) Bill 1993; with amendments, and the Gibraltar Merchant Shipping (safety etc) Bill, 1993, with amendments, the question was resolved in the affirmative.

On a vote being taken on the European Communities (Amendment Bill, 1993, with amendments; the Commissioners for Oaths (amendment) Bill, 1993, with amendments; the Imports and Exports (Amendment) (No. 2) Bill, 1993, the Social Security (Insurance) (Amendment) (No. 2) Bill, 1993, and the Employment (Amendment) (No. 2) Bill, with amendments, 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 Blackburn Gittings
The Hon B Traynor

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

On a vote being taken on the Public Health (Amendment) Bill 1993, 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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bills were read a third time and passed.

The House recessed at 1.15 p.m.

The House resumed at 3.45 p.m.

PRIVATE MEMBERS' MOTIONS

HON P R CARUANA:

Mr Speaker, I beg to move that -

"This House recognises:

- (1) the value of the service that GBC radio and television have provided Gibraltar for many years;
- (2) the importance to the community of public service broadcasting and the need for this to continue in the future;
- (3) that it is essential that the editorial independence of radio and television broadcasting be maintained and guaranteed,

and calls upon the Government to bring to this House for consideration and public debate in advance of implementation any proposal that would alter the status quo at GBC".

Mr Speaker, before commencing on my motion, I think the subject matter of the motion gives me a reasonable opportunity to once again record the dissatisfaction with the Opposition Members with the system for the production of Hansard of this House's proceedings. My comments should not be interpreted as a criticism of the staff of the House but rather as a criticism of the Government for making inadequate resources available to this House to enable it to function properly and one of the proper functions of any parliament is the ability that it enjoys to produce Hansard. This House last debated GBC in February of this year. That is a full nine months ago. One the next occasion that the House sees fit to discuss GBC, namely, now, Hansard was not available. In fact, it has been made available to me this morning by coincidence but certainly too late for me to make any serious

use of it and I think that given that Hansard is one of the primary tools of any parliamentarian in the conduct of the business of parliament, I for one, and I know that my hon Colleagues in the Opposition share the view, that nine months is simply too long to wait for the Hansard of the proceedings of this House. I would urge the Government to make available additional resources which are really just additional typing resources, to ensure that Hansard is produced more quickly.

This, Mr Speaker, is the third time that this House debates GBC since June 1991. I think the fact that by the time we have finished this motion will have had three motions since June 1991, reflects two things. Firstly, the importance that successive Houses have given GBC as an issue of local affairs and, secondly, the uncertainty that has existed in relation to GBC and its affairs, certainly since 1991. The importance that GBC has as an institution in this community, I think has been recognised successively by all Governments and all Oppositions including the present. Its importance in the political domain is quite obviously its great central role in the giving and commenting of news, in the spreading of news, in the conduct of interviews on matters political, on discussion programmes and on the creation of opinion and prejudices within the community. Not to say, for one moment, that the importance of GBC in terms of its public service broadcasting is limited to the political field, by no means at all. There are other social, cultural, artistic and sporting areas in which GBC, as really half of the serious media in Gibraltar, plays a crucial role in supplying a vital need of the community. In a slightly wider context it plays a vital role in promoting Gibraltar's identity and in the formation of Gibraltar's own cultural personality both in the context of our dispute with Spain, regionally, and the prestige that having that voice gives this community internationally. So, Mr Speaker, not wishing to cover old ground in any detail in this motion and certainly not wishing to cover the ground that we covered in this House in our debate in February which was about the adequacy of the financial resources that the Government was and is making available, I want in this motion really just to cover ground that arises or that flows from the very widely rumoured - I think it is fair now to call them much more than rumour - of an imminent privatisation or contractorisation or franchising of all or part of GBC. Of course, Mr Speaker, the importance that Government Members have historically given to GBC and to the role that it plays within the community is well documented. The Chief Minister when he was then the Leader of the Opposition in 1984, he will recall that in the Ceremonial Opening of the House in that year he made it a point of expressing the Government's commitment to GBC and to the vital role that GBC provided and continues to provide. There are other things that the Chief Minister has recognised and of which I will remind him now. GBC in 1985 was in fact a very cheap facility that this community enjoyed. Government Members, Mr Speaker, should not evaluate whether something is valuable and should not, when deciding the value of something, pay attention only to

what it costs in money. I realise that this is not something that is new to the Government Members because it was inherent in what the Chief Minister was saying in 1984. It reminds me of something that I once heard on the radio whilst I was riding in a cab in London. It has always stayed in me and it now gives me an opportunity to repeat it and that is that those such as economists and accountants who think only in terms of money and money terms, end up knowing the cost of everything but the value of nothing. That, Mr Speaker, is something which has to be borne in mind very much when we are discussing GBC.

Mr Speaker, the importance that GBC has in a lot of fields but also and particularly, which is the one that concerns me most at this moment in time, in the political field is not just a question of the resources that we give it to function. It is also a question of the framework in which it functions, how it functions and what the structure is within which it functions and whereas Opposition Members are on record as saying that we do not object ideologically to the introduction of private capital into GBC, we are equally firmly on record as saying that GBC, given its great position of influence and its great role within the community, not only in news and current affairs but also in political discussions and political opinion forming, must not be allowed to operate in a framework which exposes it to political manipulation in the future or exposes it to the way in which any private operator of GBC may be tempted to conduct its duties as a broadcaster with an eye to their own commercial interests. Of course, one of the commercial interests that a private franchisee of a radio station might have operating in his mind, of course is that he relies on the goodwill of the Government to renew that franchise whenever that franchise might come up for renewal.

Mr Speaker, before I move on I would just like to record the fact that I do not, for one moment, consider or take the view and I recognise, in fact, the opposite, that both sides of this particular House of Assembly have expressed a commitment to GBC, have expressed a commitment to its importance and have signalled and signified in almost identical terms the importance of the functions that GBC provide. Therefore, Mr Speaker, what concerns me particularly in the context of the apparently imminent initiative to franchise or privatise or contractorise, initially I suspect, radio is the opportunity that this House must be given to comment on the nature of any change of status quo at GBC in a way that gives the Members of this House the opportunity as legislators to ensure that all the important factors in the functioning of GBC are safeguarded but especially the function of GBC within the conduct of multi-party political democracy in this community. Mr Speaker, in availing myself of this opportunity to ensure that the House does discuss these issues and really that within the House - although we have already done it outside the House in the form of press communiques - to ensure that this House of Assembly is consulted in matters of public importance.

I take heart in the events in this House in July 1981 upon a Private Member's Motion then introduced before this House by the Chief Minister when he was the Leader of the Opposition. He introduced a motion that read, "This House notes (1) that GBC is considering the introduction of Spanish language feature films supported by Spanish speaking commercialisation; (2) considers that such a step could imply fundamental changes in the role and ethos of GBC; (3) considers that the House of Assembly, as the body representing the interests of taxpayers and licence holders, has a right to express a view on the wisdom of adopting such a policy; (4) therefore calls on the Board of GBC not to introduce such policy until the House has fully debated the matter". Mr Speaker, before making some references with Mr Speaker's indulgence into what transpired at that meeting, I think it is obvious just from the terms of that motion that the sentiments that the current Chief Minister was then from the Opposition was propounding was that GBC being of its nature a matter of public importance ought not to suffer any fundamental changes in its roles and ethos. We must remember that then we were really only talking about whether they should show Spanish feature films and carry advertisements in Spanish, still less..... [HON CHIEF MINISTER: Subsidised by taxpayers.] Well, he says 'subsidised by taxpayers'. I will read, for his benefit, again part (3) of his motion which read, "considers that the House of Assembly, as the body representing the interests of taxpayers and licence holders". Well, we, the representatives of licence holders, have an interest in the functioning of GBC regardless of whether public monies are involved in its subvention because otherwise what did the Chief Minister mean, Mr Speaker, when he added "licence holders to taxpayers"? It would have been just enough to stop at 'taxpayers'. So obviously he then considered that the interests of taxpayers and licence holders separately were the legitimate domain of this House. Mr Speaker, if I can just read from the first paragraph of his speech on that motion, "Mr Speaker, the purpose of the motion is a dual one. That is, it answers on the one hand the policy of the GSLP which has been reflected in previous motions, one in the last House of Assembly which was defeated by the Government, asking the Government to commit itself to a debate in the House before any fundamental changes took place affecting the airport. It is similar to the motion we brought to the House which was supported by the Government asking the Government to commit itself to a debate in the House before the Brussels Agreement was signed, and therefore what the Opposition is saying on this issue, as on other issues which we consider to be of public importance, is that even though at the end of the day the Government may not be able to persuade us to support it on a particular road it wishes to follow or we may not be able to persuade the Government to change its mind and not to proceed, what we believe and we are entitled, if the House of Assembly is going to have any meaning, is at least to have that opportunity given to us, to have an explanation given to the House of Assembly and through the House of Assembly to Gibraltar, for what is being embarked on and to give us an opportunity, as representing

a substantial body of political opinion in Gibraltar, to express any reservation or doubt or concern we may have about it and the reflection of that policy is what brings the motion to the House". I think, Mr Speaker, it is implicit in those words that the Chief Minister was (a) considering that matters affecting GBC of that kind, were of public importance; (b) that he, as a representative of the people within this House, had a legitimate right to be consulted within the House and to have the opportunity to express a view on behalf of the taxpayers and licence holders and presumably the community as a whole, in relation to what Government and/or the Board of GBC were proposing then to do. He then went on to say, "The specifics of the policy is that GBC has been a source of controversy for many years in the House of Assembly because of the cost to the taxpayer and the need of assistance from public funds. It has been highly criticised in the past by Members of the House who are no longer in the House and the GSLP made clear after the election its commitment to GBC and its commitment to retaining GBC as fulfilling a role which we consider to be important to the maintenance and strengthening of the identity of the Gibraltarians and that Gibraltar, as a community, and of having to foot the bill. We think that that is money well spent. Nobody likes paying taxes and no one likes paying out money and everyone, given a choice, wants to have his cake and eat it, would like to have whatever service is available without having to foot the bill. We consider that the service Gibraltar gets from GBC is a service on the cheap. That is, television is a very expensive business and the budget of GBC is minuscule in the context of what television costs and therefore within the constraints of the resources that they have, we think that they do a very good job. If we are now going to find that the primary concern is to reduce the cost of GBC to the Government or to turn it round into a moneymaking asset, then it is just another business and therefore the primary concern and the parameters to which the Board of GBC would have to work to, would be not whether what they are doing is going to be good for Gibraltar as a community but whether it is going to bring more money in or less money". Mr Speaker, he then goes on in similar vein, which I will not read.....[Interruption] Well, I can well understand the hon Member's discomfiture with my reading this because really one presumes that the Chief Minister has not changed his apparent adherence to the principle that this House is entitled to be informed and to debate and to express its view in advance about matters that so profoundly affected GBC and I hope that we are not going to suffer the indignity of being told in a few moments by Government Members that he was entitled or justified in taking that view of a proposal to transmit films in Spanish but that the privatisation or the change of the structure of the Corporation itself and of the whole broadcasting regime in Gibraltar is not as important as that and therefore it does not come in under the category to which the Chief Minister was then referring. Mr Speaker, if we are going to preserve the editorial independence, the journalistic independence of GBC, if we are to protect it from the pressures

of undue political influence which might, at some stage in the future, by this or any future Government or perhaps not by this Government but by some future Government it does not really matter which, it is the integrity of the structure that we are looking at. If we are to protect it from undue political interference of that kind, it is absolutely essential that there be no secretiveness in any proposal. I do not say it is not a legitimate desire on the part of any Government to wish to change the basis upon which broadcasting is organised in this community. I do not say and I do not think anyone can reasonably say, that the Gibraltar Broadcasting Corporation Ordinance is the only legitimate model upon which broadcasting can be conducted in Gibraltar and that it cannot be changed. What I say is that it cannot, should not and must not be changed by a Government of the day in private, secretive consultations and negotiations with one or perhaps a number of interested commercial deals and then to enter into some sort of contract or franchise agreement or whatever. If we are to suffer the same fate as we have done with the electricity, telephones and everything else, we should be told that the agreement cannot be published because it is commercial in confidence. I do not think this Government has the legal right to do that and I would remind the Minister whose responsibility now includes broadcasting under the last list of ministerial portfolios published by the Governor, the fact that he has responsibility in a political sense for the fact that he has responsibility in a political sense for broadcasting does not entitle him to ignore the provisions of the Gibraltar Broadcasting Corporation Ordinance under which he has no business or responsibility whatsoever for the day-to-day affairs and for the business affairs of GBC. If he wishes to fray that at the edges and he wishes to get involved in being a catalyst in trying to find an alternative structure within which GBC can operate, he certainly cannot go so far as to sew up a deal without any form of public consultation, without giving this House the opportunity to see whether this goes beyond the old managing agent mechanisms provided for within the Gibraltar Broadcasting Corporation Ordinance and even if it did fall within the realms of the managing agent mechanism, as it used to function in the Thomson days, even that I think could be a sufficient change in the status quo of GBC as it is presently operating, to warrant full information to this House and to give this House the opportunity to comment in advance on the adequacy of the arrangements in the same way as the Chief Minister felt in July 1985.

I suppose it might be a reflection of my lack of familiarity with the broadcasting world, but I have not heard of any placed in the civilised, democratic world where private interests are allowed to take a prominent role in public service, or any broadcasting for that matter, in an unregulated environment. Of course, it may well be that the Government fully intend to create a regulatory environment and it may well be that any arrangement that the Government make with Dewmont or any other proposed operator may well contain provisions for some form of regulatory control. But the fact

is that as we speak we do not have that information in front of us and just as we do not have the details of any proposed arrangement, we do not have the details of the framework in which that proposed arrangement is going to take place and we have the right. I claim for this House the right to debate and comment in advance and, as the Chief Minister did in 1985 when he was occupying the seat before me, the right to be given the opportunity as the legitimate representative of taxpayers and licence holders. I claim the legitimate right to express a view on both those aspects of any development to express a view on both those aspects of any development in relation to GBC. Developing, just for a few moments, Mr Speaker, the theme of possible framework; what will replace the existing framework of the GBC Ordinance? And if the idea is that the GBC Ordinance and, indeed, the GBC Board should remain in place, how is the Board of GBC going to exercise effective control over what any franchisee or any privatised operator might do? What controls will exist - these are all the sort of things that we would look at if information were made public in advance of any initiative - to ensure that a privatised franchisee does not employ people who would be regarded as unsuitable to play a leading part in broadcasting in Gibraltar? Given that we are actually discussing the only broadcaster, not one of seven or eight television channels or not one of 15 radio stations that can act in the market place as a counterbalancing force against each other. What controls are going to be possible to exercise to ensure that the day after they privatise radio in favour of some private franchisee he does not fill the House up-not this House, his Radio House - with people who are entirely unsuitable to hold the positions in the context of the requirement for political impartiality, for cultural impartiality, for moral impartiality and all the various duties that a public service broadcaster has imposed on it. These are precisely the reasons why we think these things cannot be done secretly and without advance consultation. Not giving an exhaustive list, here are one or two examples as they occur to me. What controls will exist to ensure that a privatised franchisee does not come under the undue influence of a foreign state or of a foreign individual who may adhere or give undue weight to interests which may not coincide with the interests of this community? I think that the acid test really is this. If Government Members want, as we all want, people in the outside world to regard us as a country fit, as I believe we are, to govern ourselves, we have really got to make sure that we conduct our public affairs in a way that is consistent with that. They need to ask themselves - and this really is the acid test - what political process would need to be undertaken if, for example, the British Government got it in its head one day to privatise the BBC and to privatise the BBC or to hand it out as a franchise of BBC radio at the time that the BBC was the only broadcaster in UK. I suppose now they could argue that the ITV company would jolly well make sure that there is political balance and hon Members will know that this was the great complaint in Spain. The reason why the Opposition in Spain was crying out for private channels was so that it could act as a counterbalance to the

only one that existed which they regarded as being hostile to their political interests. What would happen, does the Minister with responsibility for broadcasting think, if the people of the United Kingdom rose from their beds one morning and read, in whatever newspaper they read, that the British Government had handed out the franchise of BBC radio to a company controlled by a Portuguese national and that the House of Commons had not been informed. The House of Commons had not debated it. It would be regarded as something of a sick joke. People would look at their calendars to see if it was the 1st April and whether this might not be some sort of April fool stunt by the newspapers concerned. It is inconceivable that a publicly-owned public service broadcaster currently operating within the straitjacket of a statutory corporation should suffer any degree of privatisation of its functions even if GBC's days and the chain of command somewhere over the top that there should be any degree of franchising of the functions of GBC or any part of GBC without it all coming out in the open first; the proposed terms of the agreement being put on the table for the House, for the Opposition, for the media, for other interested parties to express their views before the Government commits the taxpayer and the licence holder to that as a commercial and binding agreement. I would go so far as to say that to the extent that the Government Members do not adhere to that principle, they are engaging in intolerable, political interference in an area in which any self-respecting community will wish to be seen as being cleaner than clean. It is simply not acceptable in a democracy, for the Government of the day secretly to do as it pleases with the broadcasting mechanisms of that community as if it were a Government department. And whilst on the subject of Government departments, I really do fear, and it is my great fear, that the Minister responsible for broadcasting actually has come to view GBC as his department and that he is free to tinker and to give instructions in relation to GBC as if he was giving instructions in relation to some other department for which he has political responsibility. And I cite from his own words in the debate we had in this House in February, in which he said, "Mr Speaker, the Gibraltar Broadcasting Corporation, because it exists from public funds, is under the same rigid financial constraints as every other department in the Government". The use of the words "other department in the Government" clearly suggests that the Minister in February this year thought that GBC was a Government department otherwise the use of the phrase "other department in the Government" is neither here nor there. In terms of expenditure since 1988 the Government does not differentiate between the kind of financial responsibility that it demands from its heads of department in every other Government department and the kind of savings that it is striving to get from Government departments. It is not going to differentiate between the Gibraltar Broadcasting Corporation which exists out of the public purse. And I say to the Minister, with the greatest

of respect, Mr Speaker, that the political responsibility of this Government, that the right of this Government or any Government to interfere with the affairs of GBC is limited to voting or not voting funds for it in this House. It is entirely the Government's prerogative to vote more or less money for GBC in the budget. Then to either take the political kudos or suffer the political flack from whatever might result in relation to GBC as a result of its political decision to vote it more or less funds. It is not a Government department. It is a statutory corporation with its own Board of Directors for which the Minister has no responsibility and which is none of his business. What has happened, in fact, pursuant to the philosophy reflected in these words, is that he has in fact usurped the functions of the Board of Directors because I as a company were trying to farm out some of my activities, that is something that the Board of Directors of a company would do. If the Gibraltar Broadcasting Corporation wants to franchise out or farm out or privatise some of its activities, that is what it has a Board of Directors for and this is something that the Minister is doing directly with representatives of the interested commercial parties. Well, he might giggle. Mr Speaker, I will give him an example. Information has now reached me from more than one source, neither of which I will identify here, and all of them as good as the horse's mouth, if the Minister will remember the use that we made of that phrase in the last debate.....[Interruption] Well, him but others as well. The Chief Minister is saying, "Well after we do this deal with Dewmont, Mr A and Mr B who are currently both in radio and read news on television, they are not allowed to read news on television anymore". Who is any Minister to ring up GBC and say who can read news and who cannot read news? It is blatant, scandalous, political interference. This is the equivalent of some Minister in the British Government picking up the phone and telling the Director General of the BBC that Mr Michael Lewis must not read the news any more. It is really none of his business, with the greatest of respect, Mr Speaker. And it is symptomatic of this unacceptable extent to which the Government has dealt with the problems of GBC. I put it no more strongly than out of a desire to save money. It is not necessary for me to make any allegations for the purposes of the point that I am making, in the same way as it sought to deal with the privatisation of the water and electricity and things which fall into a different category by the very nature of the difference in the activities and whilst it might be legitimate to deal in crude commercial terms with electricity and telephones and water supply, broadcasting does not fall into that category. Mr Speaker, I would have thought and the Government Members may wish to take me at my word on this, that this motion is drafted in terms calculated to enjoy the support of the Government because I do not see which of these propositions, if any, the Government would want to quarrel with. Insofar as (1), (2) and (3) are concerned, that is nothing more than has been said in this House by Members on both sides on several occasions. And in respect of "and calls upon the Government

to bring to this House for consideration and public debate in advance of implementation any proposals that would alter the status at GBC" is nothing more than echoing the sentiments, indeed almost the exact words of a motion that the Chief Minister himself brought. So either for the Government to vote against this motion, they do not think that the House should recognise the value of the service at GBC that radio and television have provided Gibraltar for many years notwithstanding what the Chief Minister said, as I have just read in this motion, or they do not think that the importance to the community of public service broadcasting and the need for this to be continued in the future should be recognised, or they do not think that it is essential that the editorial independence of radio and television broadcasting be maintained and guaranteed, or they do not think now - contrary to what they thought in 1985 - that this House ought to have brought to it for consideration and public debate in advance of implementation, any proposal that would alter the status quo at GBC. Mr Speaker, this motion is drafted in terms which are calculated to secure the support of the Government Members to undertake to this House that the status at GBC will not be changed; that there will be no contractorisation, no privatisation, no franchising, no agreements of a commercial nature, no change in the way broadcasting is in fact done in Gibraltar before the detailed proposals for it have been tabled in this House; this House has had an adequate opportunity to discuss it as was the cry that emanated from these benches in 1985 when they occupied it. I commend the motion to the House.

Question proposed in the terms of the Hon P R Caruana's motion.

HON CHIEF MINISTER:

Mr Speaker, the motion would normally have been dealt with by my hon Colleague the Minister for Government Services who is concerned with this matter and will, in fact, be dealing with the substance of the motion. I will limit myself to the lengthy quotations that the Leader of the Opposition has made and I am glad to see that I have got such a conscientious disciple in him. [HON P R CARUANA: The fact that I know my enemy does not mean that I am his disciple.] If the Leader of the Opposition is trying to know his enemy then he should not try to emulate him. I have never wanted to be like my enemies, I have always wanted to be like my friends, Mr Speaker. So I do not see how that corollary can be deduced from the fact that he is saying that everything he is doing is what I have done in the past which presumably means he approved of what I was doing then and he is imitating me today. Therefore I have to say to him the position of the GSLP in 1985 and the position of the GSLP in 1988 when we came into

office and in 1993 has been to give support to GBC and to give it independence. I do not know to what degree it was interfered with before we were in office but certainly since we have been in office it is laughable to suggest that there is any bias on television in favour of the Government politically or in any other sense. There is no attempt to tell them who is fit to interview people or not interview people and not even how often they should interview them and as far as the Leader of the Opposition is concerned if he wants to be interviewed every night then good luck to him, he can be interviewed every night. I can tell the hon Member that certainly in 1985 the predecessor that occupied this position was not as relaxed about GBC's independence in terms of its political role has been left for it to sort out for itself without us wanting to get involved. However, we have got a problem of financing GBC which was not there in 1985 because of the collapse of income that has taken place from any other source. We have tried to keep it in line with the budgets we have provided other people. That is the pint that the hon Member was making in his last debate on a motion here, that if we say to the people who run the Fire Service and we say to the people who run the Police, "You have got to try and stick to this budget" that is what we say to GBC. We do not say to them, "The budget should spent in interviewing everybody other than Mr Peter Caruana". WE just say, "You can interview him as long as you want provided it does not cost us money". It is not his appearance that we mind, it is the cost of interviewing him that we mind, if we mind anything at all. This year the House was asked by the Government to provide £800,000. The £800,000 were an increase over the figure we had intended to provide of £570,000 and we had said previously that we would keep the budget fixed and the hon Member criticised us for saying we were going to keep it fixed and said we should index link it. We did not index link it, we found that they were so much in the red already that we had to provide £800,000 and it is quite obvious they are not going to last the 12 months with the £800,000 and would be lucky if the people of Gibraltar are only required to provide £1 million this year. The House is entitled, when it is giving somebody £1 million, to question what they put or they do not put on our screens if we are providing £1 million and that is the pint that I was making in that motion. That if we in 1985, having obtained 45 per cent of the votes represented 45 per cent of the taxpayers and 45 per cent of the licence holders, we were entitled to say to the Board of GBC via a resolution in the House, not to the Government to the Board of GBC, "We might not want to see Spanish programmes on GBC and pay £0.5 million because after all if what we are going to see on GBC is going to be what we can see already on Spanish television and we are getting that for nothing why should we spend £0.5 million on seeing the same thing on this side of the border". So the position today is that really let me make it absolutely clear, people in GBC have got it absolutely clear, the time is rapidly approaching where if we are not able to bring the cost to

manageable level there will not be a GBC. There will not be radio and there will not be television and we will take the full political responsibility for that decision because we believe that the people who are paying £30 a year now are not conscious of the fact that the real cost is £150 a year per licence holder and at the end of the day it may be that the most democratic way to do it is to send a letter to each person saying, "It costs £150. If you want to have GBC you have to pay £120 more instead of £30" and then we will not have a debate here because the people will be able to vote with their pockets or their feet or whatever way one wants to put it. After all they are putting up the cash, they should say whether they think what they are getting is worth £150 or not because it is their money. We here as individuals are contributing to GBC but we are taking a decision on behalf of other people; a decision that we as a Government have been willing to support because we want GBC to continue and everything we have asked them to do in terms of restructuring has been to help them survive, not to help them close; to close all we had to say was, "We are closing you, end of story". We do not need to franchise anything out to close GBC. We just close GBC and sell the frequency, end of story. That is not a problem if that is what we wanted to do. So the reality of it is that what the Government is telling GBC is, "We cannot carry on like this. We cannot in terms of the priorities on public expenditure have a situation where irrespective of what we provide at the beginning of the year, at the end of the year we have to finish up putting more money on top and given the fact that this is not going to be allowed to continue". We know that they have made enormous efforts. We are not disputing the fact that they have made the effort. People in GBC have slimmed down, they have been spread round, they have shown a great deal of flexibility but at the end of the day it does not alter the fact that we have not got £1 million. So the position of the Government, Mr Speaker, is that we are as committed to the survival of GBC today as we were in Opposition in 1985 and precisely because we are committed and precisely because we care that it should survive, we have been constantly devoting attention to how they could be helped to survive and they could be helped to continue to operate within the cost that we, as a Government, considered in our judgement we could come and include in the budget in 1994 and defend in this House. If we do not come up with an answer then what we will come and say is, "This is the end of the line" and it may be then that people, if they really want it, will have to be willing to pay the £150 per head.

HON J C PEREZ:

Mr Speaker, although the Leader of the Opposition has not had a lot of time to read Hansard as he says, I advised him that he should do as I did and take it home over lunch and have a look at it which I have done. As usual, he seems to read in Hansard only when it says "P R Caruana" and possibly reads what he says with enthusiasm and thinks that that is

the only thing is being said. He forgets that the last time the House debated this in February the motion was amended. The motion was passed by a majority and that that majority instructed the Government to consider that Government and GBC should continue their efforts to arrive at an economically viable operation which could continue to provide local radio and television. That is what this House resolved in February 1993 and that is what I have been attempting to do since then and before that, Mr Speaker. The hon Member tells us that he has worded the motion in a way that he would hope that the Government would support the motion but then accuses me of interfering politically in the running of GBC as if it were a Government department, notwithstanding the explanation that the Chief Minister has given. He accuses me of ringing up GBC and giving instructions - I do not know where he gets his information but I can tell him one thing. If GBC were a Government department the problems that GBC has been having today would not be so acute as they are because there would be a better control of the finances. I have told the hon Member over and over again, and I told him in February and I told him in the debate before February, and I have told him every time he has raised it at Question Time that the only reason why it is taking a very long time to resolve the financial issues of GBC is because Government continues to take an arms length approach to the Corporation precisely to protect and defend the political impartiality of the Corporation. He chooses to ignore that and he chooses to, on hearsay without facts, come to this House, repeat himself all over again and accuse me of trying to interfere with the policies of GBC. Mr Speaker, the opposite is the case. The Leader of the Opposition knows quite well that GBC is guided in the legal frameworks of the GBC Ordinance where the powers on the rights and obligations of the Corporation are vested. He knows quite well that to interfere beyond those legal powers in the GBC Ordinance is political interference in the affairs of GBC. He would like the Opposition to have a right to decide how one employs people in GBC, who one employs at GBC. No, Mr Speaker, that is not the role of any of us as legislators; it is not the role of the Government and it is not the role of the Opposition. In fact, what he has asked for today is a blatant interference politically in GBC which he is asking us to join in doing. I am sorry, Mr Speaker, the role of the legislators in the House of Assembly is to ensure that the public broadcasting of Gibraltar, if it is going to continue, continues within the legalistic framework of the GBC Ordinance and if that Ordinance is changed in any way, as legislators, we will also have in this House a right to have a say in how that legalistic framework is to be changed if it is to be changed. But what he cannot say is that he wants to know how the GBC Board is going to monitor or control or exercise its powers over a possible private contractor which he has said, for the past nine or 12 months. He is claiming that the contractor and the contractorisation and that the deal over GBC is imminent because he is so suspicious by nature that everything that is done for him is secretive because it is political prudent to suggest that everything is secretive

and that he would like it all out in the open. He would not like it all in the open, Mr Speaker, to be constructive about it, he would like it all in the open so that he can manipulate it to the political advantage of his party.

Mr Speaker, he has not asked what the controls that the Board exercises today over the Corporation are or how the Board exercises its controls over the Corporation today. [Interruption] The hon Member has not asked me, he has not asked it in this House. He has not asked any of that. He wants that if there is going to be a franchise which is going to partly solve the financial crisis which the Corporation is in today, that if we go partly to solving the financial crisis by part franchising some of the role of the public service today, he then wants to know everything that he has not necessarily wanted to know about how it is exercised in the context of the Corporation and he suggests that that is the status quo. Well it is not the status quo. The status quo is what there is today and I could have easily supported this motion if what the hon Member was really talking about was maintaining the status quo, there is no doubt that I could support this motion, Mr Speaker, but the hon Member is not talking about that. The hon Member is wanting to exercise more power over what is franchised than over what is within the Corporation notwithstanding the legalistic framework to run GBC is set out in the Ordinance in the same way for the Corporation as it would be for any franchise holder which the Ordinance empowers the Corporation to franchise. I have explained to the hon Member already that the Government is not acting in the matters of GBC without power. The Government and the Minister are acting as a go-between between the Board of GBC and the franchise holder and the Minister is not the one who will be taking the ultimate decision in deciding whether radio goes out to franchise or not. It will be the GBC Board that will take it without those members who might have a direct interest in it ie the employees' representative and the management representative. But the independent members of the Board of GBC, the ones who today exercise their rights and obligations of the Board over the Corporation, will decide whether any part of the function of GBC is to go into a franchise or not and will continue to exercise those rights over the franchise holder in the same way as they are exercising the right over GBC today. And to do anything different than that would be a blatant interference with the impartiality of GBC, politically or otherwise.

Mr Speaker, the hon Member seems to have the notion that because there is a commercial element behind the move to franchise radio which could make it financially viable, that the matters raised by my hon Colleague, the Chief Minister, when he was Leader of the Opposition on the advisability of portraying foreign films or foreign advertising has not been taken into account. The hon Member is wrong. The discussions to date centre in the franchise holder continuing to provide the same public service and the same hours of public service as has been customary of GBC in English and in Spanish and

the same level of public service in respect of news, in respect of culture, in respect of music and in respect of community programmes. What the operator does with the non-customary hours of service to be able to earn a living and to maintain the public service, is the area where the franchise holder may commercialise his activity so as to support financially the public service. In that way he is using the whole of the assets of, say, radio, exploiting it to its fullest so that in that way he is able to earn sufficient income to be able to maintain the public service. But if what we are going to do is have the whole thing commercial so that we lose the public service, then it defeats the purpose of the exercise to raise funds to have a public service. The whole object of the exercise, as the motion in February clearly defined - and the hon Member was in agreement with that although not with the whole of the motion - is that we ought to strive to make the public service that we have today financially viable. So it is not that as a result of maintaining the public service we are going to do away with the public service and make it all commercial, no; it is that we are going to use the assets to their fullest so that we can bring in money from one quarter to maintain the same hours of the public service, the same time in Spanish and in English as the radio has today, the same cultural programmes, the same community programmes because it would defeat the purpose of the exercise if we gave all that up and we went totally commercial. Then we would not have a public service. We would have a totally commercial radio in which case we would rather say, "We shut down GBC completely and whoever wants to open a radio station may do so". But we are not saying that. We are saying, "Whoever wants to operate the radio has to continue to provide a public service as laid down in the GBC Ordinance". Mr Speaker, I would have loved to have been able to support the motion of the hon Member, given his very wide description of what the status quo is for him, which for me means blatant interference. I know that the hon Member does not want the future of GBC to be in limbo for such a long time, he has stated it in the House before and I have told him that, in fact, it is taking a long time precisely because the Government and the Minister cannot interfere in a way which I would like to interfere and if I had done that perhaps the financial position of GBC would not be the same today. But because of the political aspect and because GBC has not only got to be impartial but seen to be impartial, I have refrained from doing that because, Mr Speaker, I respect and uphold everything that the hon Member says he respects and upholds but which accuses me of not doing. Mr Speaker, I agree that the hon Member would not like to see the future of GBC in limbo for so long but for as long as a firm and final decision is not taken....[HON P R CARUANA: By whom?] By the Board of GBC as I have already informed the hon Member. The political advantage and the political exploitation of a very sensitive issue like this one is being done by the Opposition who continue to raise the matter of GBC over and over again repeating themselves; trying, in my view, to portray a picture of saying, "We are the only ones

who are supporting the public service in Gibraltar, we are supporting an impartial broadcasting service" and suggesting that we are not doing the proper thing by it. Well, Mr Speaker, the only thing that divides us really is that in my view they are reneging on their responsibilities in looking at the money that is voted in this House by not wanting to scrutinise more rigorously the manner in which the money given to GBC is spent. I have said this before. I continue to say it because when the hon Member opened his remarks he said that we ought not to be concerned only with the finance but he does not seem to be concerned in any way with the finance which is the other extreme. I think that it ought to concern us all that already this year, after having voted £800,000, GBC has already had a further advance of £160,000 and if it is going to continue until the end of March it will probably need another £200,000 on top of the £200,000 of licence fees that they have already collected and on top of the advertising income that they continue to collect. The situation is going from bad to worse, it is not improving. And when one tries to put a package together to take measures to solve that problem, which is what I am trying to do with the power of the Board and at the request of the Board and I will have to go back to the Board and the Board will have to take the final decision, Mr Speaker, I am told by the hon Member that there is something imminent going on which he does not know about, which is secretive and I ought to come here to the House to debate it before I do it. Mr Speaker, I am sorry, he is wrong. The only right that he and I have, as legislators in this House, is if there are any changes in the GBC Ordinance where the legalistic framework by which broadcasting is carried out is done differently; where the safeguards in the Ordinance that are there might not be there. But if the GBC Ordinance is intact and the franchise that takes place takes place within the legalistic framework of the GBC Ordinance today, Mr Speaker, then there is nothing to look at from the side of the hon Member or from the Government's side. The only factor that we are looking at, as the Chief Minister said, is that they continue to comply with the GBC Ordinance and that it becomes a financially viable proposition and if radio can become a financially viable proposition in itself and relieve some of the economic burden of the Corporation so that television becomes more viable, then down that route is where we ought to go. If the GBC Board were to say no to the proposal then, Mr Speaker, I would feel free to come to this House and say, "I condemn the position of the GBC Board for doing it" and I would come and I would do it. But I am acting completely at the request of the GBC Board in looking at Dewmont and in looking at other parties that might have put proposals and then I have to go back. And I am intervening indirectly because the hon Member himself in past motions and in questions was urging me to do it when he said it was unthinkable how long it was taking to solve this problem when the Government was so famed for tackling problems quickly. Well, perhaps he was the one who was suggesting that I should intervene but I have not without the power of the Board because that is in the only manner I can do it because it is under the GBC Ordinance that I operate.

Mr Speaker, regrettably I cannot go along with the wording of the motion because of the manner that the hon Member has presented it. And I therefore propose an amendment that reflects more accurately what the position of the House and of the Government is today and reflects more accurately what the role of this House should be in respect of GBC and certainly safeguards what I would call the attempt at political interference of the Leader of the Opposition. Mr Speaker, the amendment is to delete all the words after "This House" and replace them by -

- "(1) Once again recognises the important and valuable service that GBC has provided for many years and considers it desirable that this should continue;
- (2) Reaffirms its support to the Government and GBC in their continued efforts to arrive at an economically viable operation which will continue to provide local radio and television, such support having been expressed in an amended motion in this House in February 1993;
- (3) Is satisfied that the checks and balances contained in the GBC Ordinance allows the Corporation to exercise its rights and obligations, therein contained, in an impartial and independent manner,

and calls upon GBC to ensure that whatever changes take place in providing a public service, these should be done within the existing legislative framework which is subject to change only by amendments in the House of Assembly".

Mr Speaker, if the hon Member is really worried that there should be any changes in the status quo, this should satisfy and ease his mind because it is saying that there is not going to be any change whatsoever in the way broadcasting is done in Gibraltar or in the type of public service that we see in Gibraltar, whether the matter is franchised or is not franchised and whether there is a more commercially minded operator than the present Corporation were to be. It is saying that once again we recognise the important and valuable service to the community because it has been recognised throughout unanimously by this House, by the previous one, by the AACR in Opposition and in Government, by his predecessor Mr Montegriffo, by the GSLP in Opposition and by the GSLP in Government. We are not saying that we do not like what GBC do or that we would not want them to continue to broadcast. We are saying that, in fact, it is desirable that they should continue but following the only problem that the Corporation has which is the demand on the public purse over and above the £560,000 that is due to them which this year could well exceed the £1.2 million once again, Mr Speaker. We are saying "Yes, it is desirable that we should have radio and television. Yes, we realise and accredit a lot to those people who have been there running a service over the years. We would like

that service to continue but we have to be realistic and it can only continue within a financial framework that is sensible and that is within the scope of what the people of Gibraltar can afford". And my efforts are in that field and in that field along and I take exception to the Leader of the Opposition suggesting that I ring up the manager of GBC or anyone to give orders and if he has got any proof of it let him raise it in the House, Mr Speaker. I use the words "checks and balances" because the Leader of the Opposition tends to use the words "checks and balances" on the Government for so long and once he has got the tools to be able to exercise those checks and balances which is the GBC Ordinance, he tends to want to have more than checks and balances. He accuses me of usurping the powers of broadcasting under my ministerial responsibility, but that is what he would like to do with this motion, Mr Speaker, usurp more of the powers of the checks and balances that the power in the Ordinance gives him because he would like to know how people are going to be employed. It is ridiculous, Mr Speaker. He is talking about how do we know whether persons who are employed are partial or impartial. Mr Speaker, how do we know now? What control is exercised today about the people who are employed at GBC because the same controls that are exercised today are going to be exercised tomorrow. What he is saying is that the concept of the independence of the civil service does not exist. The concept of the independence of the civil service is that regardless of the political persuasion of the civil servant he is there employed to give a service to the Government of the day and the same is the case in GBC; regardless of the political persuasion of the individuals that are there, they are there to give a political impartial service and the Government has never interfered and will never interfere with the people who are employed in GBC and the Opposition should not want to interfere either if they really want impartiality. If what they want is political influence themselves over who is employed and who is not employed. The inverse of what the hon Member is accusing me of doing is what the hon Member wants to do. He wants powers which he has no right as Leader of the Opposition or as a Member of the House to have and he wants powers which the Government have not got and should not have. I am afraid that the hon Member has gone over the board on this one, literally as well as the Board of GBC, that is. Mr Speaker, I commend the amendment to the motion and I think it is going to be hard for the Opposition to support the amendment given that I have had no option but to reply to the Leader of the Opposition in the manner I have because of the accusations and the insinuations he has made on me and on my role. I am afraid that unless he substantiates any of those accusations, Mr Speaker, he should certainly withdraw some of the remarks that he has already made but if he does not want to withdraw them I will sleep comfortably tonight, my conscience is clean.

Question proposed in the terms of the amendment moved by the Hon J C Perez.

The House recessed at 5.05 pm.

The House resumed at 5.30 pm.

HON P R CARUANA:

Mr Speaker, I will speak now only to the amendment. Mr Speaker, the Opposition Members will not be voting in favour of this amendment and truly I regret that the Minister saw it necessary to introduce this amendment because it places an onus on them to say what part of my motion they disagree with. Mr Speaker, we will not support the Government's motion for this reason. It says, "This House reaffirms its support to the Government and GBC in their continued efforts to arrive at an economically viable operation". Mr Speaker, economic viability, as I have tried to argue and as the Chief Minister himself forcefully and persuasively argued in 1985, is not the only criteria, is not the only yardstick by which propriety is to be measured. In other words, it is precisely what I am saying in my own motion, that it is not enough to simply find a commercial solution just as the Chief Minister said in 1985 that if the issue was going to become to simply reduce the cost of GBC regardless of the value it had to the community then this was a different ball game and GBC would not be providing the same services. And we will not support a motion that suggests that the Government and GBC are to be congratulated only because they propose carrying on efforts to arrive at an economically viable operation. That operation, as well as being economically viable, must adhere to the principles and structures and systems that is normal to apply to publicly owned broadcasting facilities in a community. And I am not satisfied - and this is the second reason why the Opposition will not be supporting the Minister's motion - "that the checks and balances contained in the GBC Ordinance allows the Corporation to exercise its rights and obligations, therein contained, in an impartial and independent manner" if GBC radio is being carried out by a private contractor on a franchise basis over which the Board of GBC has no day-to-day management control or influence; no ability to control on a day-to-day basis the programming and things of that kind. And if the Minister says to me "But they have an overriding ability to supervise, to make sure that they are being....." that is not proximate enough and I am not satisfied. The answer is that the Board of GBC have practically no chance to exercise checks and balances on Dewmont or some other contractor in whose favour radio is franchised, no chance at all. Therefore, for those two reasons, the Opposition will not support the motion. And it is not enough that this House simply calls on GBC to ensure that any changes take place within the existing legislative framework because just as the Board of GBC, for example, today has no editorial control over the programmes produced, Mr Speaker, by Straits Vision. What control does GBC exercise over the modus operandi or the programming of Straits Vision? None, and it is going to be exactly the same in respect of news. Mr Speaker, the Opposition will be voting against the Government's motion. It is plainly inadequate and it plainly fails to recognise the rights and duties of this House and of GBC; both of them.

HON J C PEREZ:

Mr Speaker, it is clear that there are two different views and two different interpretations of what GBC does, what the function of the Board is and what the legislative framework is there to do. I am going to keep it very short but the Leader of the Opposition has just said that he is not satisfied that the checks and balances that are contained in the GBC Ordinance can be carried out by the Board of GBC without these day-to-day controls. The GBC Board do not have a day-to-day control of the Corporation so they are going to do exactly the same to Dewmont or whoever it is, that they are doing to the Corporation today. That is the status quo. What the hon Member cannot say is that he is not satisfied with the GBC Ordinance but wants to keep the status quo which is the GBC Ordinance. There should be some consistency there. The other minor point I would like to tell him is that I am certainly not asking him and would not expect him to congratulate me or GBC for anything. The motion actually says that it reaffirms its support for the attempts that are being made to find an economically viable solution and when we arrive at that economically viable solution I shall remind him that he is then in a position to be able to congratulate the Government if he so wishes. Thank you, Mr Speaker.

HON P R CARUANA:

In replying first, Mr Speaker, to the remarks of the Chief Minister, who has not spoken on the amendment and therefore I can only be replying to what he said on my motion which is exactly what I am on my feet to do. He said that it was laughable to suggest that there is bias at GBC. Well, I do not know whether it is laughable to suggest that or not. All I can tell the House is that I did not suggest it, I never used the word "bias". I never suggested that there was bias at GBC so I do not know why the Chief Minister saw fit to open his address by saying, "It is laughable to suggest that there is bias". Who has suggested that there is bias? Certainly not me in my address. So the word "bias" in relation to GBC must be impregnated on the Chief Minister's mind, certainly not put there by me in anything that I said. "This House", he said, "is entitled to question what is put on the screen" - here is the attempt to distinguish between the 1985 motion and this motion. He was entitled to question whether GBC could put out a film in Spanish and I am not entitled now apparently to question or to expect that this House should question and be asked to be given the opportunity to debate a privatisation motion. The distinction is a distinction without a difference, Mr Speaker. We are entitled to much more than question what is put on the screen, I would go further. I would say that it is questionable whether we are entitled to question what is put out on the screen except in the context of whether we think we are getting value for the money that we vote at the budget session but presumably the Chief Minister is not suggesting that this House is disqualified, as the Parliament

of this community, from commenting on the proposal to privatise part of a public service which is owned by the people of this community and which is subsidised by Government. If that is what the Chief Minister way saying then I obviously disagree with it and I will deal with more of that in a moment. But the Chief Minister's mathematics is, I hope, uncharacteristically suspect in relation to this. He said, "The people will have to decide whether £150 per licence holder is worth paying". I really do not know where he gets that mathematics from. Presumably he has made the rather basic mistake of getting the subvention and the number of licence holders and spreading the cost equally of the subvention between the number of licence holders. Well, the subvention does not come from the licence payers, the subvention comes from the taxpayer and there are not 6,000-odd taxpayers, there are roughly equivalent to the amount of the workforce, there are about 14,000 or 15,000 workers in Gibraltar. There are therefore 14,000 taxpayers and therefore the subvention is being shared not by the 6,000 licence holders but by the 14,000 taxpayers which is where the subvention comes from. Therefore it is not £150, it is £55 per taxpayer and if to that £55 per taxpayer - which is what the subvention costs, not the £150 per licence holder which is an irrelevant statistic - it is £55 per taxpayer, if to that we add the £30 that the taxpayer that is also a licence holder pays in total, he pays £55 as a taxpayer through the subvention and £30 as a licence holder through the licence fee, it costs him £85 a year and I challenge the hon Member to argue that £85 a year is too much for the service that GBC provides to its consumers given that it costs the consumer £25 to have his car unclamped once for something that takes one man five minutes to do, he pays £30 to GSSL for unclamping his car and the Government are seriously arguing that £85 - not for one unclamping - for a whole year's worth of public service broadcasting, that that is too much. Well, they can say it; I sincerely hope they continue to say it because no one will believe it except themselves. Then, of course, perhaps the most cardinal of all the "sins" that the Chief Minister committed in his address was that he simply failed to address the issue. I was not questioning whether the finances of GBC did not require something new to happen in relation to GBC. My motion does not say, "and because GBC are performing such a valuable service the Government must continue to pump in endless sums of money and must prop it up whatever it costs even if the taxpayer cannot afford it". That is the case that the Chief Minister was answering, it is not the case that I put. The case that I put was that when they do decide what they want to do to address the financial problems at GBC, this House has a right to debate it in advance of implementation. That is the case that I was putting in my motion, "and calls upon the Government to bring to this House for consideration and public debate in advance of implementation any proposal that would alter the status quo at GBC" and let the record show that the Chief Minister simply did not address himself to that point in any respect because, frankly, solving the financial problems of GBC is not inconsistent with bringing

the proposal to solving the financial problems of GBC to this House before he implements them. I think people in Gibraltar are now well used to and are no longer convinced or persuaded or even impressed by red herrings thrown in answer to perfectly legitimate questions. People have now learnt that when somebody asks (a) and somebody goes off at a tangent and answers (c) and has omitted to give the answer which is (b), what he has done is failed to answer the issue. That, with the greatest of respect to him, is what the Chief Minister has said. He, who brought a motion to this House in 1987 saying that the simple broadcasting of films in Spanish ought to have been brought to this House before implementing, has said nothing in 1993 in answer to my motion brought from exactly the same chair from which he brought his, that if there is going to be privatisation or franchising of any part of the operation of GBC - let alone the language in which one film might be broadcast now and then - that that should also be brought to this House. Of course, he has not addressed his argument to that issue because really there is no answer that will save the Government from the duplicity of standards that they are implementing from that side of the House to the one that they implemented from this side, at least on this issue of whether this House is entitled to be consulted in advance of the implementation of a privatisation programme at GBC.

I move on to the somewhat more amusing intervention of the Minister for Government Services. Before I forget it because I do not have a note on it, Mr Speaker, the status quo at GBC certainly is that the Board do not control the day-to-day activities. I never said that they did. But the Board's employee does, the managing director of GBC who is an employee of the Board....[HON J C PEREZ: What about the legislation?] and answers to the Board and answers to the Chairman of the Board. He controls the day-to-day affairs of GBC.

HON J C PEREZ::

Will the hon Member give way?

HON P R CARUANA:

No. When I finish the point I will give way to the Minister. The General Manager of GBC who answers to the Board, who is accountable to the Board and who is required to take the Board's instructions on matters of policy, he supervises the day-to-day. Who is going to supervise the day-to-day operation of a privatised franchisee? What person answerable on a day-to-day basis to the Board is going to do that? So let the Minister not say that I do not know what the status quo is. I know what the status quo is and I know what it would be if there was franchising and it would not be the same thing. I do not understand why neither of the two speakers who have spoke in this debate from the Government benches were able to open their interventions with something that was at least

true. The Chief Minister starts by saying, "It is laughable to suggest that there is bias at GBC" which I had not said and the Hon Mr Perez says, "Mr Caruana only reads from Hansard where it says 'Peter Caruana'". I have read from Hansard several times today and none of them have been Hansard of what Peter Caruana said so I do not know what the Minister for Government Services thinks entitles him to accuse me of only reading from Hansard when it says "Peter Caruana" as if I was some sort of prima donna that only quoted from his own Hansard. The only Hansard that I have quoted from today is what the Chief Minister has said in this House and what he himself, the Minister for Government Services, has said. I have not quoted from Hansard of what I have ever said and therefore, Mr Speaker, I think that if anyone has got to withdraw anything it is him. The imputation that I only quote from my own Hansard, I do not think I have ever quoted from my own Hansard.

HON J C PEREZ:

I have not said that, Mr Speaker. I have never accused him of quoting from his own Hansard, I have accused him of reading everything.....[HON P R CARUANA: What he said, and I have got it here in.....] If he wants to continue with lies and innuendoes.....

MR SPEAKER:

Order, order. If he wants to give way you can.

HON P R CARUANA:

Mr Speaker, I do not think he can say that I want to continue with lies and innuendoes. I think that, at least, must be withdrawn unless we are abandoning the rules of parliamentary language in this House as well. The Minister had said that if I want to continue with lies and innuendoes.

MR SPEAKER:

I think that is harsh and I call upon the Minister to withdraw that and to put it in a more gentlemanly manner.

HON J C PEREZ:

Fine. If the hon Member wants me to withdraw, I shall withdraw but he is always trying to say something that I have not said and it might not necessarily be a black lie but it is certainly a white lie. I have not said that he only quotes Peter Caruana. I know he does not quote Peter Caruana, I have said that he only reads Peter Caruana because he ignores everything everybody else has said in the motion of February which is the motion I was referring to. He would like to say that no, he reads and quotes the Chief Minister and myself and everything else but I have not said that. He is free to continue to distort the things that I have said but let him know that he is doing that and let the people and the House know that he is doing that, Mr Speaker.

HON P R CARUANA:

Mr Speaker, he still accuses me of telling white lies and he must withdraw it.

MR SPEAKER:

I think white lie means harmless.

HON P R CARUANA:

All right, Mr Speaker, I take your ruling. It is the Minister who tells white lies and white of the deepest tone before it becomes another colour. He is the one who tells white lies. [HON J C PEREZ: Whiter than white.] No, as black as they can possibly be without ceasing to be white because I have him here in quotations as saying, verbatim, "Mr Caruana only reads from Hansard where it says Peter Caruana". [Interruption] This is what he said, I have got it here. Well, Hansard will demonstrate what I have said. "Government", he said, "takes an arms length approach to the Corporation". Is he or is he not - he and not the Board of GBC - personally conducting negotiations with Dewmont Securities and its directors? I think it is common knowledge in Gibraltar that that is the case. If he wants to stand up in this House to say, "I have not conducted personal negotiations with Mr Frenkel", I have no way of disproving it but there are plenty of people listening to this programme who will know who tells white lies or lies that might not be so white. When he says that I must withdraw all my allegations, does he deny [HON J C PEREZ: He is asking questions?] Well, I will give way. I am asking rhetorical questions but I will definitely give way if he wants to answer any of them. Does he deny, Mr Speaker, that he has expressed the view that post-privatisation, post-franchisation of the radio there are two newscasters, two employees of radio who currently read news on television and that he has said that they cannot

continue to do so? [HON J C PEREZ: Yes, I deny it.] Well, he may deny it but it is common knowledge that this has happened, who has said it? Not him. I think in all fairness to him I should give way to let him answer it.

HON J C PEREZ:

Mr Speaker, I have not said that, I have not even been asked. I know that in the talks and negotiations between Mr Frenkel and Mr Richard Cartwright and the other people in radio, Mr Frenkel has put it as a condition, I have not. I am not involved, it is a negotiation between the staff of GBC and Mr Frenkel. But, of course, his information is, as always, distorted.

HON P R CARUANA:

Let me tell the Minister that my sources of information are the very same ones that after the last time this House debated GBC saw fit to issue a public statement expressing great surprise at what had been said in the House by some Members of the Government. It is exactly the same source, they know..... [HON J C PEREZ: I do not recall that.] No, he does not recall, that is why Hansard exists. They do not have to recall all this. Mr Speaker, I think what the Minister said is that I was asking for blatant interference; that in effect I was blatantly interfering in GBC by bringing this motion asking for the Government to debate in advance. The Government Members cannot bury their heads and forget history. How can the Minister for Government Services suggest that I am blatantly interfering by asking for this House to be given the opportunity to debate in advance of implementation, a proposal that affects GBC when in 1985 the Chief Minister brought an identical motion to this House on something considerably less important, namely, whether GBC should screen a film in Spanish? So the GSLP in 1985 felt that it was legitimate for the House to expect GBC to tell them in advance and for them to debate in advance whether GBC could broadcast a film in Spanish but it is political interference for me now - just because they are in Government and I am in Opposition - to say that the House is entitled to debate and to be informed in advance of a privatisation proposal. The argument of the Chief Minister is frankly infantile and if it is not infantile it is steeped in hypocrisy and duplicity. That I am suspicious by nature? Of course I am suspicious by nature, because there has never been a Leader of the Opposition before - I suspect anywhere in the democratic world - that had to live with a Government that buys themselves and privatises public assets and then says, "Well I am not publishing the agreement because it is confidential". Of course I am suspicious; it is not suspicious it is certain knowledge. It has gone beyond the realms of suspicion. The Government are the secretive ones, he is the one who I say conducts himself secrecy. I am not suspicious of secretiveness.

I know that there is secretiveness and what I am saying is that at least on this issue, given the subject matter, he is not entitled to be secretive and I am entitled to have this information in advance. Trying to justify the refusal to bring this proposal to the House for debating in advance on the basis that they are trying to solve a financial crisis by franchising out. Well good for them. Let them franchise out. Let them solve the financial crisis in that way but why is that inconsistent, Mr Speaker, with bringing the proposal to the House first as if we could choose between bringing it to this House first or solving the financial crisis but we could not have both? Well, again it is a red herring and there is no intelligent person listening to this debate who does not know that it is not a red herring and it is a rather crude attempt to avoid answering a perfectly simple case which is that this issue is sufficiently important for the Parliament of this community to debate as it would be in any other parliament. And that is not good enough now to blackmail us into thinking, "Well if you are not careful, if you do not stop asking too many questions and if we do debate it in advance, by January we might not have GBC at all". Frankly, I cannot imagine....[HON CHIEF MINISTER: Is that not a new subject?]

MR SPEAKER:

Is the Government objecting to that?

HON CHIEF MINISTER:

No, Mr Speaker, I am just saying that if the hon Member wants to bring a motion of censure here we can have a debate on a motion of censure. He is supposed to be rounding up and introducing no new matter. Notwithstanding the fact that I accept that 90 per cent of it is not new because 90 per cent of it he has already said six times, the 10 per cent that he has not said six times seems to be new like now saying we are blackmailing him.

HON P R CARUANA:

No, Mr Speaker, the purpose of the rounding up is to answer what other people have said, that is the purpose of the rounding up. I do not know what a rounding up means when conducting a trade union negotiation but I know what a rounding up means when conducting an argument because it is my profession, and a rounding up means that as the proposer of the argument, having heard what the opponents have said against one's argument, one gets the opportunity to answer them and that is exactly what I am doing. And he did say, because I have it here in quotes, "We are just trying to solve the financial crisis at GBC with a franchise". I say, "Good for you but how is that inconsistent with what I ask you to do

which is to bring the proposal to the House first?" He also said, Mr Speaker, "The Member wants to exercise more power over what is franchised than what is in the legalistic framework of GBC". Mr Speaker, I want to exercise no power over anything. I am not so naive as to think that any Opposition anywhere, still less an Opposition in Gibraltar, actually wheels any power but what I do know is that a Member of this Legislative Assembly, this Legislative Assembly has a right - and let the Government Members argue, if they wish to, that it does not have a right - to debate in advance something as critical as the privatisation of GBC and by a desire to debate that before it happens, I am not seeking to exercise any power over anything. He says that he is not interfering, that he is only acting as a go-between between the Board and the franchisee. He went on to add that the Board would make the final decision. Mr Speaker, if one believes that one will believe almost anything. Anyone who believes that the Minister for Government Services is little more than the postbox for the Board of GBC in its negotiations with Dewmont Securities is naive to the point of stupidity and anyone who believes it is even worse and I am very confident that no one, Mr Speaker, will believe that. And anyone who believes that the Board of GBC is going to overrule a decision based on a negotiation which the Minister has negotiated personally, when he is holding the sword of Damocles over their heads and signing their paycheques at the end of every month or the staff does not get paid.... [Interruption] No, the staff at GBC, this is what I said. Anyone who thinks that the Board of GBC, knowing the financial precarity of GBC's financial position, is going to reject a commercial arrangement personally negotiated by this go-between, Mr Speaker, frankly will believe almost anything. The reality of the matter, Mr Speaker, I put it to this House for the record, is that the Minister for Government Services, who took the precaution of having broadcasting added to his list of ministerial portfolios by the Governor before he did so, is personally conducting negotiations on behalf of the Government for the franchising of GBC and when he has come to a deal with which he is politically satisfied, he will put it to the Board for rubber stamping. We all know that that is the position. That we are, he said, politically exploiting the GBC issue; this is what he said, Mr Speaker. So would the Minister for Government Services consider he would expect to find by which presumably he means how he would expect responsible Oppositions to behave in mature democracies and how he would have behaved when he was in Opposition. Never mind that they made a fuss about broadcasting films in Spanish. But he thinks that the Opposition should simply remain silent and arms crossed whilst the Government secretly and privately conducts negotiations for the privatisation of Gibraltar's public service broadcasting and that to stick up one's head and say, "Hey, what is going on?" the Parliament of this community should get an opportunity to debate the proposals in advance, he says that that is politically exploiting the GBC issue. No, the political exploitation of the GBC issue is the intolerable situation which exists today, Mr Speaker, where the whole

of GBC from the General Manager down to the charwoman knows that unless the Government gives them additional monies from one month to the next they will not collect their salaries. That is political exploitation of the GBC issue as well as being completely intolerable. That is the sword of Damocles that this Government has held menacingly over the whole of the Gibraltar Broadcasting Corporation and its staff since 1991 and possibly before. One could go on all day, Mr Speaker, arguing what he has said. He said, "The only right that he and I, as legislators, have is if there is a change in the legislative framework of GBC". Ask the Chief Minister, Mr Speaker, whether he thought in 1985 that GBC's proposal to broadcast films in Spanish represented a change in the legislative framework of the GBC Ordinance? This position that they now adopt is simply unsustainable from a party that brought this motion in 1985 and it is an insult to the intelligence of anyone who might be listening to this debate to suggest that a motion saying that GBC should not broadcast films in Spanish amounts to a motion on the legislative framework.... I am sorry, does the Attorney-General want me to give way?

HON ATTORNEY-GENERAL:

Just to say that it was the ninth time he has spoken about films in Spanish.

HON P R CARUANA:

He must learn to speak Spanish then. Mr Speaker, this is a litany of stupidity. That the Opposition wants to usurp powers over employment? That I want political influence over who is employed because I want to debate, as an elected representative of the people of this community, before any privatisation deal? So the BBC can be privatised in England by the Government because if the Labour Opposition try to raise it in the House what they are really wanting to do is to exercise political influence over who is employed by BBC. It is almost a waste of time to take the trouble to answer these ridiculous allegations. That I want powers to which I have no right? I have no right to powers and I want no power but I do have a right as a Member of this House and this House collectively does have a right to detail information and to debate in depth, breadth and detail any fundamental change the way public service broadcasting operates in this community and anybody who suggests the contrary, Mr Speaker, either is not a committed democratic parliamentarian or simply does not understand what parliaments exist for in a democracy.

Question put in the terms of the amendment moved by the Hon J C Perez 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 Blackburn Gittings
The Hon B Traynor

The following hon Members voted against:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon F Vasquez

The Hon M Ramagge was absent from the Chamber.

The amendment was accordingly carried.

Question put in the terms of the original motion moved by the Hon P R Caruana and on a vote being taken the following hon Members voted in favour:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon L H Francis
The Hon F Vasquez

The following hon Members voted against:

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

The Hon M Ramagge was absent from the Chamber.

The original motion was defeated.

HON P CUMMING:

Mr Speaker, I wish to move the following motion:

"This House -

welcomes the annual Principal Auditor's report;

wishes it to be acted upon where necessary; and

appreciates the constitutional role of the Principal Auditor as one of the necessary checks and balances to the power of the Government".

Mr Speaker, if my homework has been done accurately, this Principal Auditor's report has cost the taxpayer £200,000, so those of us who grit our teeth and stay in the Chamber, would at least become familiar, if we are not so already with the main features of this report, so that the taxpayer's money can be well spent. This motion, Mr Speaker, is phrased rather low key in the hope that the Government may see their way to supporting it. This is not a question merely of castigating the Government or anything like that. The House welcomes this report, the Opposition welcomes the report, not because this is a stick with which to beat the Government or at least not just for that reason. It is also an insight into the workings of the various Government departments which would not be available to us otherwise. Especially welcome because although this mechanism of the annual Principal Auditor's report is flawed and it is flawed by him not having sufficient resources for his job, but especially, it is flawed because of the accounts of the Government's private companies not being made public. Therefore, it does not give us by any means a full picture. So, although it has this basic flaw, nonetheless, it is one of the checks and balances of a democracy that actually, in spite of it being flawed, it does work to a certain extent. The Opposition welcomes this report on those grounds. Appreciating the constitutional role of the Principal Auditor, he cannot be seen as just one other employee of the Government in the same way as the Chief Justice could not be seen as an employee of the Government, yet they serve the State. They work to the Queen and they have a position of independence from the Government. My daughter Catherine is studying accountancy in Cardiff University and when she heard I was going to do some talking about auditing, she sent me some of her handouts to prevent me from putting my foot in too deeply. In one of the handouts on financial accounting and auditing entitled the "Macfarlane Report" and it says, "The enduring principles

of auditing....." and it goes through the various ones. I only want to highlight one or two. There in big capital letters it says, "Independence". Auditing is based on a situation of independence. And so it says, "Auditors should be objective, free from influence, independent of the company and its directors. Obviously, we are talking here about auditing in the sense of ordinary companies in the private sector. The auditor, therefore, has to be independent of the company and its directors and if we were to compare Gibraltar to a company, then obviously the Government is the board of directors and the auditor must work independently. Accountability, is another big heading and it says; "Auditors should act in the best interest of shareholders". If we compare Gibraltar then to a private company, the shareholders are the taxpayers and the electorate. Therefore, the Principal Auditor owes his accountability to the taxpayer. The Principal Auditor's report is submitted to the Governor and then the Governor has it laid on the Table in the House, thereby making it public. This is a mechanism then by which the shareholder can see whether or not his money is being properly invested and it is nice to see in the Gazette of a few days ago, that this report can be obtained from the Publications Office at No.6 Convent Place for the price of £3. Anybody who is interested and wants to go along can see the accounts of Gibraltar and the Principal Auditor's report thereon. Flawed, because it does not give the full picture of the private companies and so on. Nonetheless, it is an element of democracy that is still functioning in Gibraltar and therefore something very welcome. Turning then to the report itself, I would like to highlight some of the features that I see as important. I would like to say, Mr Speaker, at this stage that I could not pick the Principal Auditor out of an identity parade. I do not know him, I have not had any communication with him and I say this because at budget time, we made some remarks about the audit and after the lunch break, the Chief Minister made some angry remarks in which he was saying that he was going to get the Governor to have the audit run all over again as though, it seemed to me, purposely misunderstanding what we had been saying because we were not criticising at all the functions of the Principal Auditor. What we were saying was the mess upon which, in many areas, he was reporting and the objections that he had made in some areas. When the Chief Minister came back after lunch-break, he said "I have been on the telephone to the Principal Auditor....." and however independent he is obviously he is aware that the Chief Minister is a man of some importance in the community and therefore it cannot have been very pleasant for him to have had his ear bent. So certainly I do not know him. It may be that during the days of my exile wandering as a lost soul in the corridors of the Secretariat, I may have passed him in the corridor and probably identify him as a civil servant but not as who he is. I would like to comment on the paragraph entitled "Value for Money Audit" and this is the only very mild criticism that I would make of the

Principal Auditor himself, if it can be called a criticism, maybe just a remark on what he has said under the heading of "Value for Money Audit" because he says that although this is out of the scope of this certification..... In other words, when he has looked at all he has got to certify that the accounts are in order. Nonetheless some areas were being determined for this kind of audit. It seems to me a rather coy remark because value for money auditing is extremely well known and a few years back Mrs Thatcher ordered a value for money audit to be carried out in the Health Service with regard to money being invested in the medical consultants and the empires of each one were evaluated by auditors using this value for money principle. As is to be expected the consultants were violently outraged by the temerity of non-medical persons trying to establish whether value for money was being achieved or not and I must say that from my own knowledge of the medical profession I think the results were wonderful because more money was put in to areas that made very big differences to a very large amount of patients. Less money was invested in those rare areas that made little difference to very few people. Orthopaedic surgery was one, many more orthopaedic consultants were created, were trained and were promoted. Many more orthopaedic theatres were set up; hip replacements, transformed the lives of thousands and thousands of people with that operation. Even in my last year as tutor at the hospital, the final exams for staff nurses sent from UK had as one of the nine questions: "Value for money is a very important concept in the Health Service today, so comment on this in so many hundreds of words and indicate how a staff nurse can contribute to value for money service to patients in the National Health Service". So it seems rather coy that the Principal Auditor should say value for money as though it was something out of this world. I do remember the Chief Minister, at some stage, commenting that the privatisation of part of the audit would help in this respect. This is not something new that I am talking about. It seems to me that if the controlling officers of Gibraltar's finances do not have any value for money function, then they are not carrying out their functions properly. In this Principal Auditor's report, there are many commonsense elements of value for money that he does actually address. Even though he may not glorify with that name, there is some evidence of value for money.

Let us go on then to a most important heading of "Arrears of Revenue". "The escalation of arrears of revenue continues to be a matter of serious concern. The position as at 1st March 1992; the amount due to Government totalled £20.28m, representing an increase of just under £5m over the corresponding figure at the end of the previous financial year." We have here two elements, Mr Speaker, one is the arrears and the other is the escalation of arrears. To illustrate this point, let us take an example from health, a matter in which I have some professional knowledge. Let us imagine that I am two stones overweight and nowadays everybody is very conscious of obesity and its health implications. Let us say that I am two stones overweight,

how significant is this for my health? It may be that it is not significant, because maybe I have been two stones overweight all my life and my body has learned to compensate and to cope and perhaps this is not doing me much harm. Let us say that I am ten stones overweight, then this is going to kill me in a very short time....[Interruption] Please do not take this personally, it has nothing to do with the House. Mr Speaker, if on the other hand, I am gaining weight by one stone per year, this is a very significant finding and the doctor can very easily predict that within seven or eight years I shall be dead. So we have here then the arrears as one question and the escalation of arrears as another. The arrears of £20million in revenues of the Consolidated Fund we could take as say £90million. I know there are other increases here and there but for rough comparison, it seems to me a huge amount: £20million in comparison to the income of the Consolidated Fund. A huge amount. Therefore, this is like the person who is ten stone overweight and who is in a very serious problem. Quite apart from that, we have then the graphic element; the escalation and, Mr Speaker, this is a phenomenon directly related to the GSLP Government because it starts to take off as the GSLP takes office. So, in 1989, the arrears were £8.6million, in 1990 £14.3million, in 1991 £15.4million and in 1992 £20.3million. So we see here then an explosion taking off like a rocket of arrears. So we have then a very severe problem of the amount and an even more severe problem of the graph which is warning us that this is a very severe problem that is continually getting worse and which allows us to predict a sticky end, if drastic action is not taken. We have to ask then, "Why is it that this is happening?". "Why is it that commensurate with the taking office of the GSLP, this element appears?". Referred to in this Principal Auditor's report, is the disbanding of the enforcement element which took place in 1990 and obviously must have some influence in this matter. I think this is a massive blunder which the Government should recognise and go back and put that right; to bring back the enforcement element. The enforcement was disbanded for supposed practical reasons and we have been through this in the House before. It is there on Hansard and I remember vividly those speeches of the Chief Minister in which he talked about how, for example, a pound was spent to save a penny or one hundred pounds was spent to save a penny and this did not make sense and therefore let us do away with all these sections and so on. We might as well say if a policeman is on his beat up the Main Street, how do we evaluate the productivity, the value for money element because what did he do as he walked up? Maybe he did absolutely nothing, but what did he prevent by his presence? So it seems sensible to spend a pound to save a penny in this case. Let us take the famous Dutch boy who, on finding one of the dykes or the dams which protect Holland from the sea, finding a leak stayed overnight with his finger plugging the leak and was a great hero. One might as well have said, "It is only a litre a minute, let us lose it and not put this asset here to stop the leak".

But of course, the leak becomes progressively escalatingly larger until the whole of the country can be destroyed. I think that the disbandment of the enforcement sections was a great mistake, but I do not think that that is the sole reason for this social disease, this problem that the Government will have to face about escalating arrears. There is a problem of the underlying philosophy of the Government which reflects at various levels and has various effects and implications. For example, at the last Question Time very recently, we had a question that I was making about a company that, for sure, had links with the Government. We were not able to establish what those links were and in pressing that, eventually, we managed to, like getting blood from a stone, a tiny bit of information of what that link was. But in that context, I had the temerity, Mr Speaker, of making use of the dreaded "C" word which immediately brought forth an apocalyptic fit on the side of the Chief Minister and provoking yourself, Mr Speaker, to make rulings about imputations and so forth. The Chief Minister said in great anger, "The reason that you make statements about corruption is that because you are the sort of person that would be corrupted, you think that everybody else is". That to me, Mr Speaker, contains a statement of philosophy. There is an underlined philosophy here about one's understanding of human nature. And of course, I would consider myself a person that could possibly be corrupted because I believe that according to the Judeo Christian philosophy, by which many people in Europe form their opinions, that our human nature is a fallen one inherited from Adam and Eve and therefore we, as the Bible says, are prone to evil from our earliest days. Therefore, we need the law and we need regulations so that we can live in community with some kind of order. Whereas there are others who are influenced by atheistic, Marxist philosophy. They were certainly in unions of years back; philosophies associated with the political creeds of anarchy and it seems strange to think that not that many years ago people were putting forward and proposing anarchy as a serious political option. Now we say anarchy is a bad word. But how long ago is it, forty years, that there were political parties of anarchists who wanted this system? Why? Because they believed that everybody is good and everybody will do right in the right social circumstances and unfortunately, this is not so. We need the law and we need regulations and we need to order our society with discipline. It seems to me that the underlying philosophy of many of the members of the GSLP in thinking lightly about the role that the law plays in the life of a community, that this has ramifications and is very quickly taken up by people who very quickly turn to the same attitude and use it against the Government. Laws can be seen as elastic and stretchable and so the attitude spreads like wildfire and then we end up with a situation where, for example, businesses getting into difficulties will not hesitate to, instead of paying in their taxes at the due time, will simply use it for their own purposes and think that this is their personal benevolent fund. Mr Speaker, this £20million of arrears represents a big loss of income. There are many social needs in our

community crying out for money as the Government well know. They know better than I. This money, if it has been recouped, could be invested and be producing income and there are thousand excellent uses for this money. The Principal Auditor makes reference to having to get a move on with the arrears because they become statute barred, I believe at six or seven years. So some of the money owing is owing for six or seven years and may be permanently lost. The Principal Auditor makes reference to the need to regularly write off bad debts so that the picture for trade is a real one and not a fictitious one. So we are here with a serious problem of arrears that if it is not dealt with seriously and energetically is going to get Gibraltar into a lot of trouble.

So let us move on then, Mr Speaker, to a different heading, although obviously we will go into arrears department by department. There is a section here in the Principal Auditor's report headed "Westside 2", and it says that in March 1991, rounding off the figures in order to make it all easier, £5million is paid to Gibraltar Homes Ltd, so that, I assume, Westside 2 can be completed. The understanding is that the Government then is buying all flats that are not sold, so that when they are sold, this money will then be recouped. I assume that the company, Gibraltar Homes, was going bankrupt and in order to ensure that the project is finished for the benefit of people who need subsidised housing, the Government have made that arrangement for them. That will be fine, we want subsidised housing. Housing is to be subsidised with taxpayers money. That is right. The question is that the houses are now sold and only £2million has been recouped, so there is another £3million there. Maybe it has very rightly been spent, but the fact is that it has not been accounted for and it has not been audited. This is taxpayers money. I believe that it should be accounted for to the last penny and audited and that the taxpayer is entitled to know how his money is being used and to have some kind of a guarantee that is going to the right place because as I say, even though we want housing to be subsidised by the Government, we do not want private companies to be subsidised by the Government. They have no call on the taxpayers money to keep their companies going and to be cushioned and protected from the effects of their own inefficient business practises.

We move on then to the section headed "Gibraltar Investment Fund" and the Gibraltar Investment Fund, Mr Speaker, is the letterbox through which Government passes money from their public accounts into the secret accounts of the many private companies that they own. This is the kind of twilight zone, a no-go area. The documentation of which when the GSLP falls from power, I am sure will make very interesting reading, which I look forward to. It seems from the three Principal Auditor reports that Varyl Begg Estate, to mention one, that the man in the street will not take favourably to the fact that places like Varyl Begg

Estate have been sold to a private company. A private company belonging to the Government, created by the Government and owned by the Government and that it is reduced to equity and that its assets are expressed in the Gibraltar Investment Fund. We have asked time after time whether this is used for mortgage purposes and all that. We have been assured that it has not. Why is it done, to look good in the books? I do not know. It can only be seen as suspicious and unfavourable to the man in the street. In the last year's Principal Auditor's report, the sections under Gibraltar Investment Fund, made interesting reading, whereas this year, they are a little bit boring and there is a reason for that, I am sure. Last year, in the Principal Auditor's report, there was a chink opened in that twilight zone of the private companies, through which we could look and see what sort of things are going on in those companies from the financial and auditing point of view. The Principal Auditor made clear in last year's report that he was not able to account fully for all inter-company transactions; that it was not possible to carry out a proper valuation of Gibraltar Investment Fund investments and that accounting practices were poor. So he opened there a little chink for us to see what was going on in those private companies. This year, contrary to all previous practice where he has made an important comment, he has referred back to it in his subsequent report to say that last year, I made this and that comment and this now has been put right or it has not been put right or it has got worse. That has been his practice to refer back and this time he just simply leaves it out altogether and it can only seem to me that he must have been asked that or told that unless he wanted surgical removal of his larynx, he was to shut up about the private companies. Otherwise it does not make sense. It seems to me, Mr Speaker, that if there is one constitutional reform that Gibraltar needs urgently, it is that the Government must declare all their income and all their revenue and all their expenditure and that this should be properly and publicly audited for the benefit of the man in the street. That so much taxpayers money should exist in this twilight zone area that we cannot know what is happening to it, is something abominable in a democratic society. The Principal Auditor mentions that there is the sum of £7.6million of company tax which is now routinely paid in to the Gibraltar Investment Fund and bearing in mind that income tax brings in £40million of Government revenue, to an amateur and to a layman, like myself, it just seems that £7.6million in comparison is a relatively small amount. I speak, of course, entirely as a layman in this matter, but it seems to me that perhaps in the smaller companies, one hears in the street that if one has a company one can put one's personal car, personal house in Spain, personal video, in the company accounts and this is tax deductible. I merely suggest this and ask to be corrected if I am wrong that this amount could be improved by proper monitoring.

Moving on to the Social Insurance Fund, the Principal Auditor says, "No records of contribution arrears are available, but it would appear that the level of such arrears has increased significantly over the past years, so that

recoverable but unpaid in 1990, was £300,000, whereas in 1991, the level is £800,000." So we see that in every aspect of Government revenue, escalation of revenue arrears is taking place.

In the Customs Department, the Principal Auditor reports that the money recouped in revenue and the money subsequently paid into the Treasury, between the two there is an unexplained difference of £86,586, ie difference between what was collected by Customs and what was paid into the Treasury. Undoubtedly, this is accounting errors and so on and so forth. Nonetheless an unexplained difference of this magnitude has to be explained and of course the Principal Auditor has asked for this matter to be taken up and I hope that the Government will see to it that this is exhaustively investigated so that it will be seen to be proper and that no gaps like this of unexplained discrepancies should be allowed to take root and prosper.

In the Education Department, there are also arrears but it is nice to see in this tiny area a little element of commonsense value for money auditing and a small success story. In 1991 for the College of Further Education fees for courses, there were arrears of £11,000, in 1992 there were £19,000 but in 1993 it has gone down to £1,200 and it seems that the Principal Auditor told them that their enforcement capability is very weak and therefore it seems sensible that before they accepted somebody on a course they made sure he paid beforehand. Very simple commonsense. Commonsense is not that common, unfortunately, but this has brought down those arrears from £19,000 to £1,200. One success story in the accounts. Still in the Education Department he says, "I drew attention in last year's report to the fact that improper use was being made of the deposit account operated in the Department of Education". On first reading I thought that this was a petty-fogging, bureaucratic, difficult, obstructionist view, this is nonsense, there is no substance to this issue. But on re-reading and meditating on the subject, it seems to me that this is an example which highlights the apparent tensions between the carrying out of a proper auditing and the Government's philosophy. I understand perfectly that the Financial and Development Secretary, the Accountant General, and all the financial employees of the Government are there to serve the Government and if the Government says "I want a deposit account or a fund set up for this and that purpose", for speedy use or whatever it is, this must be done. Obviously, it is not the financial officials that are going to be ordering the Government, it is the other way round, excluding of course, the Principal Auditor. In the question of this deposit account, the Director of Education has answered to the Principal Auditor, "This Department was instructed to use this deposit account in spite of your adverse remarks on improper use of this account", and obviously the Principal Auditor tells them to do one thing and the Minister tells him to do another thing and he is going to do what the Government says. The

Principal Auditor insists that this is improper use, so what is happening here? It seems that the Department wants a fund whereby it can rapidly turn round some of its revenue to other uses, which I believe in this case, is setting up of new courses for the Employment and Training Board. It is a very good use of money, excellent idea. They need it quickly because these ideas rise up and must strike when the iron is hot. The normal way that the Principal Auditor wants to be used obviously takes longer, although there has been meetings with the Financial and Development Secretary and so on to expedite it through the normal channels and so on, but not the use of the deposit account. The last thing in the story then after two years of this is that now they are continuing with their deposit account and of course the Government is perfectly entitled to set up funds for its use at its convenience, obviously, for its purposes. But now the Director of Education seems to have satisfied the Principal Auditor because the position has been regularised for the 1992/93 accounts. He has put in place internal controls to ensure the propriety of deposit account transactions and the accuracy of the records by way of internal reconciliations and so forth. So reading between the lines, what we have to say is that he was complaining about improper use before and it is not that anybody, and I know most of them, and I am absolutely certain that the impropriety that he is referring is not that anybody is taking money from the deposit account and putting it in his pocket, not at all. But the impropriety is that the checks and safeguards were not in position and therefore it was opening the door to problems for the future and this is why the Government in the past has taken enormous umbrage and breathed fire about impossible libel and so on when we have said that the doors to corruption must not be opened and it is not that anybody is putting....No, not at all. It is just that, if we have an account which is operated without the proper professional financial safeguards, we open the door that sooner or later somebody will have the bright idea of putting their hands in their pockets. I am absolutely certain that nobody in the Education Department is doing this or has even crossed their minds, but with the passage of the years and new people coming along and a lax attitude in general, human nature being what it is, somebody will eventually help himself to the funds, if there is an easy way of doing it. So it has been regularised now, safeguard, professional safeguard whereby they can be checking and double-checking some of the taxpayers money goes to the right places and is efficiently used. It seems to me that this example shows that the difference in philosophy between the professionals and the Government on this issue. The Government is not terribly keen on professional bureaucracy and have little patience. They want to get on with the job and this and they pooh pooh some of the bureaucratic red tape. I know that they can go too far with this, but the taxpayer has to be sure that his money is being looked after and these financial services are there to protect his money. Therefore, this motion invites the Government to be a little bit more conventional in their ways. Now after six years of

Government, they are very much the establishment. They came originally very anti-establishment but now they are so much part of the establishment that it behoves them to be more conventional and to support more these traditional methods of controlling money.

So let us move then to the Housing Department. House rent arrears have increased during the financial year under review by nearly 12 per cent and stands up roughly to £0.5million. It is curious that in all areas of Government Housing, rent arrears have gone up except in Varyl Begg Estate where arrears have marginally decreased. So why is this? The improvement would appear to be at least in some way attributable to the refurbishment programme and certainly I am aghast when I hear people, even people who come to the GSD surgery with complaints, who say, "I have been there and I have been banging the table and I say I will not pay any more rent until this or the other is fixed". The facility with which people take resort to that line of not paying the rent as a protest because of some grievance or another. The ease with which they are doing it and of course again we refer to the Government's philosophy in this matter about human nature, which is mistaken and the lack of enforcement. So more and more people are taking to this path of simply not paying up. In Varyl Begg Estate, of course, there were many problems with the roofs and rain coming in and all this and I suppose that those people stopped paying the rent. I would suggest that it would be much better for the Housing Department to receive people with complaints and to say to them immediately "Your grievance is so big that for the time being do not pay your rent until we sort it out", to prevent that person sort of becoming an outlaw and doing that for himself. There is a section entitled, under the Housing Department, "Hire of Scaffolding" and in 1992, the Housing Department spent £178,000 on hiring scaffolding and in 1993 spent £262,000 on hiring scaffolding so that the money spent on scaffolding is also escalating. One does not have to be a genius, it seems to me, to be an effective auditor for the Government departments because with a bit of commonsense, one can suss it all out for oneself so there is a considerable idle time element involved in the hiring of scaffolding. So at this enormous expense scaffolding is hired, it is put up and then instead of going on to paint that building, workers move off somewhere else and leave the scaffolding up. They paint somewhere else until it occurs to them to come back and the scaffolding is there being paid for daily; the money accumulating; dead; idle; this is simply scandalous. I think this is absolutely elementary; a waste of public money and mismanagement of public funds. We could put the most junior clerk or the most junior anybody to do auditing and come up with things like this is simply scandalous. So the Principal Auditor asks "Has this hiring of scaffolding been put to tender?". And of course it has not. We go on then to an incident in the Housing Department of theft of 25 x 1 litre barrels of paint plus three of 20 litres which have been stolen from the Housing Department and the Department reports this to the Police. The Police

subsequently find in a shop this paint on sale and obviously the owners of the shop are dealt with. In going to the three different stores of the Housing Department, the Police, looking through their books, do not find any deficit in their accounts for those stores. This again is absolutely scandalous. That the paperwork of the stores are totally incompetent, so that such a big robbery of paint goes undetected, or even worse, is intentionally and maliciously covered. So either there is gross mismanagement in letting this happen so casually or there is a malicious element in the running of the stores in the Housing Department. The Police report concluded, "that the stores accounting system was flawed". It seems to me an understatement of the situation. So to avoid further loss of government property, the Principal Auditor writes to the Housing Manager back and forth and it seems that the Housing Manager despairs of being able to put a can of paint locked up in a store and be sure it is there the next day. It seems that he suggested that it is better to have a central store somewhere away from his department where a few barrels of paint can be safely stored. That seems to be the level of morale in the year on which the Principal Auditor was reporting. It seems then that there is another system whereby if a wall is going to be painted, the person that is going to paint the wall, goes immediately to the shop and buys a can of paint and goes immediately to the wall and paints it, so that presumably the can of paint cannot be stolen. This is outrageous; that the reins of management and of government should be so far lost. We are talking about a philosophy of anarchy. This seems to be well established in the Housing Department. It is unbelievable. The Principal Auditor is there in the Housing Department and he finds that there is a brand new set of computers, six new computers and a whole lot of stuff because they have decided, very wisely, to computerise the rent roll and the collection records. Excellent! But it occurs to him to ask, "What did this computer cost you?". "Well, we are not actually able to tell you." Weeks later, months later, it so happens that it has cost this much from here, so much is pending from over there. I ask the House to listen to this, this is priceless, "There is a recurring annual charge of £2,000 in respect of licence fee for the software". I mean, one would have to say, "Pull the other one, this cannot be so". What kind of shopping is going to be done? If a person is running the budget of his own home, he does not need to know anything about financial accounting or auditing to know that a home cannot even be run on these budgets and this way of doing things. An annual charge of £2,000 is simply not on. The Housing Department scores particularly badly in this report for the Government, which likes so much the hands-on management. The Hon Mr Pilcher has appointed himself in the past, General Manager of the Dockyard. The Minister for Health is in effect the General Manager of the Hospital, and so on. So we have to lay some blame on the Minister for this shambles in the Housing Department. He is a good man, he is big hearted, hard

worker, but a bull got into a china shop and worked very hard and people would have wished that he had not worked so hard. Before leaving the Housing Department, the business here of going to buy a can of paint to paint a wall from the value for money point of view, the Principal Auditor says, "This is not satisfactory because bulk purchases are so much cheaper than going to buy a can at a time at the shop". In the light of all this, a value for money audit was done by Price Waterhouse in the Housing Department. Very wise! This audit revealed inadequacies in control of labour costs. Surprise! Surprise! Inadequacies in time keeping; inadequacies in supervision of labour, inadequacies of job costing. Mr Speaker, the Government have been dealing very harshly with GBC and if it dealt with the Housing Department as harshly as it has dealt with GBC, in this value for money area, the Minister would have been having a very miserable time all this last few years. The recommendations of the private audit by Price Waterhouse on behalf of the Principal Auditor has made several recommendations which the Principal Auditor understands, the Government are going to put into effect and I look forward with great interest to next year's Principal Auditor's report to see these new systems taking effect, so that the position will improve and not continue to deteriorate.

So we move on then from the Housing Department to the Income Tax Department and the arrears of revenue in January 1993 is over £13million. Pay as you earn; employers are simply not paying it in according to the law. They are seeing this as money that they can pay into a sort of business benevolent fund from which they can help themselves to free loans at will to subsidise and to help ease their cash flow problems and so on. And it seems to me totally immoral. I think this is an odious practice and I am sure the Government agrees because this money does not belong, by any manner of means, to those companies. This money belongs either to the man who earned that money or to the Government to whom the tax is owed. So from the moral point of view, it would be far preferable for PAYE to be stopped and instead of paying my tax direct to the Government, I pay it into the bank and I keep it there for two, three or four years and then I keep the interest for myself and then eventually if they hassle me enough pay them or if not I will just keep it for myself. So, for a socialist government to allow this practice to prosper seems to me a very questionable matter. Incidentally, a very interesting comment here from the Principal Auditor is, that in February 1993, the total amount due on PAYE from public sector companies was £350,000. So the Government's own companies are at it too, instead of setting an example for the others to follow. So it spreads and this is something that the Government must urgently put right. But at the very least their own companies should act according to the law and pay up to the Government coffers. The enforcement of tax collections through the Attorney-General's chambers is not working satisfactorily because the chambers are insufficiently

resourced, so we cannot take these people to court, either to make them pay up, it seems, in anything like near enough numbers because of this huge backlog so obviously more resources must be made available so that this job can be done before the problem becomes simply insurmountable. If it can be solved now it should be solved as quickly as possible. The longer it is left, the more difficult it will become, if not impossible. In last year's Principal Auditor's report, he says "That unrealistic declarations of income tax from the self employed are being accepted." He says that since the investigatory capacity was removed in 1990, they are not able to follow it up. This is a problem, of course, which ends up in that very often the self-employed are the people in our community who are better off and therefore the burden of income tax falls more heavily on the less favoured than on the more favoured. I know that the Chief Minister has given this matter his attention because some years back there was a famous speech of his, very much criticised, that ruffled a lot of feathers, where he made very injudicious remarks and improper remarks, not entirely unrelated to the Yacht Club and the soup kitchen, and one must say what became of it. Was that socialist rhetoric of the first month of socialist government, that now as the GSLP has been becoming increasingly Thatcherite in its outlook, it has become less and less important. The Government has lost its taste for doing something about this problem which discriminates against the lower paid, who have to pay up every single penny they owe in tax whereas others are getting away with unrealistic declarations just like that.

Let us move on then to Judicial: Magistrates' and Coroners' Courts. It seems that even here, revenue due from fines is escalating. There is a sum of £70,000 which has increased by £26,000 over the previous year and it seems, Mr Speaker, that if there is an area of the Government's accounts which shows little respect for law, it must be this account, because if the court imposes a fine and simply the person does not pay up his fine, the mechanisms for following up and enforcing are extremely slow and inefficient. By the time it passes from the hands of one to another, it takes six months before the person who did not pay his fine is brought to book. It is a process that is very time consuming and presumably after six months, these may be people who have gone elsewhere and it would be impossible to recoup this money. So out of respect for the law, it would seem that something has to be done and indeed it says here that a review of the present system was called for by the Administrative Secretary and the Financial and Development Secretary and so on and certainly it seems that out of sheer desire for a lawful community, this should be put right as soon as possible. If somebody is fined, there should be a very quick and efficient method of making him pay up because otherwise this is contempt for the law, quite apart from the fact that arrears mount up.

So let us move on then to the Port Department. Revenue also mounting up £127,000 in 1992. The Merchant Shipping Ordinance fees arrears went from £74,000 to the following year £119,000. Escalation as I say, in all departments. The Principal Auditor last year commented on the poor state of the Port Department stores, on the lines of Housing Department and the position remains so, but here we are told that a consultancy exercise currently being undertaken on Government stores generally. This is the reason why nothing has been done. I think that it is a very good idea that something should be done, but not left to the consultancy study. This should be done quickly and put into effect quickly before the situation becomes as bad everywhere as has been described in the Housing Department.

In the Post Office, stamps withdrawn from circulation it says in 1985, have still not been destroyed. Presumably, they are being kept in reserve there until somebody does the favour to the Government of stealing them and disposing of them at some profit. The cash tills, we are told, are not balanced on a daily basis, so that it becomes very difficult to account for cash discrepancies. If the till is not squared daily, obviously it becomes increasingly difficult to find out where and why a discrepancy was caused.

We move on to Public Works, which obviously has stores of big value; stores which may value £0.5million and of course there, once again, the stores are in an impenetrable condition from the point of view of auditing. Stock verification becomes practically impossible; the value of stock in hand becomes, it says, an arithmetical exercise of no value from the point of view of auditing. New issues may not be followed up with a voucher. Vouchers may be lost sight of. Casual system vouchers may not be filled in. No signature; no name; no date. Sometimes they cannot even find vouchers to issue a voucher. So the physical voucher to issue is not available and therefore, obviously, it becomes impossible to keep track of assets that belongs to the taxpayer.

We move on then to the Licensing Department and, again, there are reconciliations not being made; security not being properly carried out; in unpaid licenses follow up action exceedingly lax.

In the section on rates, there is an interesting set of statistics because in the period of the GSLP Government, the percentage of billing has increased by nearly 30 per cent, which is unpaid and last year £3.5million of arrears of rates have now gone up to £4.8million this year. These figures are curious because in all the years of GSLP government, the rates arrears figure has very roughly doubled, year by year. So we start with £330,000, going up to £644,000, £1million to £2.1million, so in this last four years, we can roughly say, that the rates arrears have gone, doubling year by year. The penalty levied on late payment of rates, it says, may or may not help to recover rates but what is certain is that once the penalty is levied,

there is very little chance of actually recovering that money.

Electricity arrears, it says, stood at £2.5million in 1992. "It is evident that the worsening arrears position continues virtually unchecked, so that at the time of writing this report, it has gone up to £3.03million." This reminds me that a couple of months back, in the surgery of the GSD for constituents who want to bring some complaint, a man came to me with evidence, that seemed to be believable, with regard to hotels. Hotels were simply not paying their electricity charges and their this and their that and - to some extent there had been arrears for many years - once again, it is the mentality which discriminates against the one hotel that does pay up. If the rest do not, this is unfair to the one that does. If I do not pay my rent and everybody else pay their rent eventually they are going to end up paying my rent for me. From my trade union days in the hospital, management started to complain about the rate of absenteeism and certainly, I always took the view and persuaded everybody else to the view that abuse of uncertificated sick leave militated against the people who turned up for duty and did not abuse the system. If half the staff does not turn up, for example, at the hospital on night duty, the ones that are there, are going to have to do the work for the ones that do not turn up. This system whereby, whoever does not feel like paying up is allowed to get away with it, discriminates against the people who do their civic duty and pay up as per the law. The man in the street must have an interest in seeing that everybody pays up because otherwise the ones that pay up subsidise the ones that do not pay up. I found it interesting that there is a little remark here where it says, "Cut-off action of domestic consumers is a matter which has been in abeyance for quite some time now." I remember a constituent again coming to the surgery. I must remember wrongly, I was thinking that her electricity had been cut off, but it maybe that she was just threatened to have it cut off; with a huge bill which she had not been paying for ages and it seems to me that the small domestic consumers, who are building up by not paying for ages huge bills. There may be very good social reasons why they are not paying up. It seems to me that something must be done early before large debts are built up because they have to be protected. People, who for a social reason may not be paying up, may not understand the significance of what they are doing; must be protected from finding themselves in a situation of being heavily burdened with debt, maybe for the rest of their lives and being totally unable to pay. Through the social workers, one would have thought that early on, when a problem is identified, this should be referred to a social worker who should get round to see whether this is a case of somebody who needs the law set on them or somebody who needs help. The problem must be identified whilst it is still soluble by helping that person to organise his finances or to be subsidised by the social services whilst the problem is small and not as this lady who came

to me in the surgery with a huge bill that is going to spoil her life for a long time and hang over her head. That ends the comments from the Principal Auditor's report, so that in the final summary, Mr Speaker, I would like to call upon the Government at two levels. One is on the level of practical steps and the other one at the philosophical and attitudinal baggage which they carry. From the practical point of view, it may be that the Government agrees with everything that I ask them for and that I am preaching to the converted. I would ask the Government to take the following practical steps. First of all, to encourage value for money auditing; to take urgent and drastic actions to turn around the problem of escalating arrears before it does serious harm to Gibraltar's economy. To make sure that order is imposed on the administration of Government's stores urgently. To put a stop to the odious practice of companies keeping PAYE deductions indefinitely as a fund for their own use and to ensure effective and realistic evaluation of income tax assessments for the self-employed, so that the tax burden is fairly distributed in our community and to re-establish as soon as possible enforcement staff where necessary. I call upon the Government, Mr Speaker, to reconsider the implications of their own philosophy to elasticity of the law in making public the secret accounts of the private companies that Government owns and to take a more conventional and favourable view of the safeguards provided by professional and bureaucratic regulations related to accounting and financing. Mr Speaker, I commend the motion to the House.

Question proposed in the terms of the Hon P Cumming's motion.

HON CHIEF MINISTER:

Can I just say if any member of the Opposition wishes to speak, I will be the only one answering for the Government.

Mr Speaker, I will be addressing myself principally to the motion and not to the speech because it is a motion that we have before the House. The Government has taken a policy decision as to whether it can support the motion and it cannot. We cannot support the nonsense that the hon Member has been saying but we do not have to support the nonsense in order to support the motion. The fact that he still does not know what the purposes have been of recapitalising property, notwithstanding the fact that I have explained it for God knows how many times in this House. He still does not know it because he still raised the issue again today. It is not something that I am going to address. If he thinks that there is something improper about it he can ask his daughter Catherine who

will be able to tell him that Her Majesty's Government is currently telling local authorities to follow the example that we started in 1988 on the capitalisation of public property. Maybe if he asks his daughter Catherine she will confirm that. The hon Member has said that it was Mrs Thatcher who introduced value for money audit and has asked us to follow her example. That is what he has just done. He said, in the course of his speech that Mrs Thatcher said "Do a value for money audit in the health service" and then he finished saying we should follow that example. That does not mean that everything Mrs Thatcher did was right. It does not mean that everything she did was wrong. It is irrelevant whether it was her idea or somebody else's idea. We look at the value of the idea not at the name of the person that thought it up and if the Hon Mr Cumming comes up with positive suggestions we will not be put off by the fact that it is Cummingite in looking at the possibility of implementing it any more than we would if it was Thatcherite. The answer is of course that just like Mrs Thatcher, who is a politician, not the Principal Auditor of the British Government, took a policy decision on the value for audit, we in the Government took a policy decision on the value for audit. Obviously, the value for audit was not that we were being audited, it was the departments that were being audited. What the Principal Auditor is saying is that it is not his function laid down in the Constitution of Gibraltar or in the Public Finance (Control and Audit) Ordinance to carry out value for money audits. It was something he suggested to us and we as a Government, politically, could have said we did not want it but we said we would try it out. We tried it out in the Housing Department where the Principal Auditor contracted Price Waterhouse who had been previously doing value for money audits in the United Kingdom. It was as a result of the findings of that value for money audit that a number of changes were introduced in working practices which resulted in major industrial unrest. It is not to be unexpected and however hands-on we may be, I can assure the hon Member that my Minister does not go round putting up scaffolding or rushing round with tins of paint. That is not included in the responsibilities that he has as a Minister and therefore the hon Member is wrong if he thinks that the constitutional role of the Principal Auditor is to keep a check on the power of the Government if by the Government he means the eight of us elected by the people of Gibraltar. If that is what he thinks the constitutional role is then he is wrong. That is not the constitutional role. How could it be? The role of the Principal Auditor is to make sure that things happen as we might have decided. Not the opposite. If we bring to this House a law that says tomorrow somebody has got to sign a piece of paper in triplicate, the Principal Auditor will go along when he does the audit

and say "Has this been done in triplicate?" and if it has not been done in triplicate he questions why not. Someone is not complying with what is laid down. The deposit account was not a political decision, the decision on the deposit account was taken by the Financial and Development Secretary at the time in the Education Department and in a number of other areas to pay people without it being shown in the accounts of the Government as income and expenditure. It happened with people in the College and therefore the hon Member has got totally the wrong end of the stick. The Employment Board was paying the College for running courses and the College was paying the lecturer and instead of the money being shown as revenue and expenditure of the Government, the money went into a deposit account and the lecturer was paid out of the deposit account because the work he was doing was not for the Education Department but for the Training Board. Had the Training Board paid the lecturer directly the Principal Auditor would have had nothing to say on it. I do not know how it has finally been sorted out technically but it was whether technically this should be done and it was happening in areas where, for example, a private developer was saying to the Road Section "I want a private road tarmaced" and the money instead of coming in as sale of Government services was going straight to pay the bonus for the people who were doing the tarmac on a weekend. These things, have been brought to light by the Principal Auditor, which is the useful role that he plays. Sometimes we get to know of a particular oddity somewhere in the system when we read the report. Even after six years in Government. We then take a policy decision and say "Well, look, what is the explanation for this, why is this happening?" And then we say to people, "This must be put right". So as far as we are concerned, we welcome the role of the Principal Auditor. We do not think the Principal Auditor is there to keep an eye on us, if that is what the hon Member thinks, we think the Principal Auditor is there to help us to make sure that the policies on which we have been elected are being carried out and obviously we agree entirely with the hon Member that keeping a worker's PAYE is an odious practice. He does not need to persuade us that something needs to be stopped. I have to say, he was actually reading from the page which shows that the only area where we have made any progress has been in the odious practice of keeping PAYE. If he looks on page 38 he will find that although arrears of tax are shown as having gone up from £10.7 million to £13.1 million, arrears of PAYE have gone down from £5.4 million to £4.1 million. So the non-PAYE has gone up by more than the total on the bottom of £2.5 million. We have actually succeeded in this one year for the first time in something like ten years in bringing some control over the odious practice. At least that

crumb of solace he could have given us, if he has read it. He has not deliberately decided to leave it out. From my point of view I can assure the hon Member that I wish it was zero instead of £4.1 million but it is certainly better that it should be £4.1 million instead of £5.4 million. I think it is particularly encouraging in a year where arrears in every other element of revenue got worse, the arrears of PAYE got better. Let me say that it was also the year that we contracted out the chasing of PAYE and it was also the year that we took a tougher action and put more companies into liquidation for the non-payment of PAYE, which the hon Member knows already because we have had a question about the increase in liquidations and the answer of the increase was supposed to be an indication of how badly we are running the economy of Gibraltar as more people are going bust. I know of no other way of ending the odious practice other than saying to people "Either you pay or I bust you". If the hon Member has some other formula we will certainly look at it. That is the only formula we know. We do not bust people lightly because at the end of the day it does not help anybody. We do not get the money. We got more people out of work, so we believe that it is better to make them accept that we are serious about putting them into liquidation if they do not pay but if they come back with a story saying "I am going through a bad patch, give me more time" then, generally, the time is given. There are persistent offenders where it is difficult to believe that however much time you give them they are going to do it because they are people who have had a record where they have entered one agreement and then not honoured it, then another agreement and they have not honoured, another agreement.....

If we had not as a matter of policy said if people are really going to believe it there must be some cases, the worst cases if we like, where we actually go down the route of saying "If you are not going to pay we are going to put the company into liquidation" because if we never do it to anybody then nobody ever takes us seriously. That is one of the things that has happened and has had an improvement but obviously the areas that were highlighted in the audited accounts and the areas where the hon Member has urged that we should take action are areas where there is not a matter of difference in policy. That is to say, we believe as the hon Member does that something needs to be done to address the question of realistic assessment of the self-employed. The Principal Auditor has been saying this year after year after year. I have already mentioned that we have got somebody coming out from UK to advise the Commissioner of Income Tax and the people in the Income Tax Department how an improvement in that area could be brought about. This person, initially, is being provided

by the United Kingdom Government under technical assistance. I have said we are prepared to finance his work once I start seeing that his work actually starts producing results. Otherwise we are going to be more out of pocket. We will have to see whether that is reflected in an improvement but it is not a matter where there is a political difference. I am assuming that the hon Member speaks on behalf of everybody and that everybody has got his enthusiasm for hounding down the self-employed, the odious practice of PAYE, and the other areas of arrears of revenue that require urgent and drastic action. I can assure him that I am as enthusiastic about the idea as he is.

All I propose to do, really, Mr Speaker, is to confirm that the Government will be supporting the motion but we will be amending the third paragraph of the motion to reflect, as far as we are concerned, what we understand the constitutional role of the Principal Auditor to be which we certainly appreciate and which as I have explained is to make sure that the resources of the Government; the resources of the people, are being used in the most efficient way to ensure that the policies that the Government have determined are being put into effect. My proposal is that we delete in the third paragraph of the hon Member's motion the words after "Principal Auditor" and we substitute "in ensuring that the most cost-effective use of public resources is made in implementing the policies of the Government and in meeting the expenditure approved by this House". I commend the amendment.

What I am saying is we are supporting the motion brought by the Hon Mr Cumming. I have not gone into detail in the substance of what he said but it seems to me that one area where either we are not in agreement or we are potentially dealing with a misunderstanding is in what is meant in paragraph 3 by the necessary check and balance to the power of the Government. I imagine that the hon Member, given the speech that he has made, is not saying that the Principal Auditor is exercising a control over the power of the Housing Manager but over the Housing Minister; that he is not having control over the power of the head of the Department of Education but over the Minister of Education. If that is the case then I am telling him that is not the role of the Principal Auditor and we cannot vote something that proclaims a constitutional role to the Principal Auditor which is not his role in the Constitution of Gibraltar. His role is in fact to do two things - one is to make sure that if we in this House vote money for one thing then the money is used in the head and in the sub-head for which it is voted or alternately that if it is being used for something else it has been used in accordance with the

statutory provision for virement which require the Financial and Development Secretary to authorise the virement from an excess in one subhead to a deficiency in another subhead and the Principal Auditor makes sure that those statutory rules are being complied with. In addition, as a recent development, it has not always been the case, he comments on whether, even if the thing is being done properly according to the rules, it is being done in the most efficient way. I think that is where the hon Member was saying that value for money audit is not a new thing, it has been going on for a very long time. I think it is true that it is now being considered a specialist field where there are people who specialise in value for money audits and who, therefore, go into an auditing function not simply to check whether this receipt has been signed by the Controlling Officer in the presence of a witness, if that is what the rule says. Rather than looking at the receipt, the value for money auditor forgets about the receipt, he is less concerned about whether everything has been done down to the last full-stop and comma, and says "Is there any sense in doing any of this, does it make sense to be doing this?" and then they come up with recommendations which require policy decisions. The value for money itself was a policy decision taken on the initiative of the Principal Auditor. The Principal Auditor recommended to the Government, not in the report, over and above his statutory duties, that we should try out this value for money audit which was increasingly the way auditing was going in the United Kingdom. We said we would try it out. We tried it out for the first time in the Housing Department. We have certainly discovered a few things we did not know and we certainly created a few headaches we did not expect but nevertheless we hope that the result will be that the people of Gibraltar will get better value than before the value for money audit was done. That is the whole purpose of the value for money audit. As far as we are concerned, this is not a question of the Principal Auditor being there to check the power of the Government. If the Government decides, as a matter of policy, that rather than face an irate workforce it will not implement the recommendations of the value for money audit, that is a political decision for which the Government has to answer but the Principal Auditor cannot say to the Government "You have to do it". I think this is why what I am saying to the hon Member is that the amendment I am proposing is an amendment which, as far as we are concerned, does not detract from his motion because we welcome the report. We wish that it should be acted upon where necessary. We appreciate the important contribution that the Principal Auditor makes in making the public administration more efficient and making sure that money is being spent where this House decides it should be spent, which may mean that they vote against

and we vote in favour but at the end of the day it is when the majority in the House has decided it should be spent on. Therefore, what my amendment seeks to do to the motion is to reflect what we consider to be the role and a role that we support.

Question proposed in the terms of the amendment moved by the Hon the Chief Minister

HON P R CARUANA:

Mr Speaker, I agree with the comments made by the Chief Minister, on reflection. I do not think that the constitutional role of the Principal Auditor is to check and balance to the powers of the Government. I wish there were others but I accept this is not intended to be one of them. The reason why I am going to produce and suggest an amendment to the amendment because it seems to me that what this House is now doing, perhaps for the first time ever, is expressing a view as to what the role of the Principal Auditor is and I think we ought to try and get it as accurately as possible since it will have some authoritative value beyond the scope intended when this motion was first put down. The Chief Minister's amendment to which I am addressing myself to the exclusion of all else, says that he appreciates the constitutional role of the Principal Auditor in ensuring that the most cost-effective use of public resources is made in implementing the policies of the Government and in meeting the expenditure approved by this House. I do not think I am being unduly critical of the verbiage there when I comment that the suggestion is that his role is in ensuring that the most cost-effective use is made of public resources in two things. Firstly, in implementing the policies of the Government and in meeting the expenditure approved by this House, so that the relevance of the meeting the expenditure approved by this House is to ensure that it is cost-effective. I do not think that is what the Chief Minister means and it is certainly not what I would agree with. I think the Principal Auditor has got two roles, one of them is to ensure the most cost-effective use of public resources. Two, is to ensure that public monies are spent only for the purposes approved by this House. In other words, that for monies spent by a Government department to be legally spent it has got to be under one of the votes that we approve in the budget and that has nothing to do with cost-effectiveness. He has got a cost-effective function and he has got a function to see that the controlling officers do not spend money except in manners which is covered by a vote of the budget, subject to the powers of the Financial and Development Secretary on reallocations. To make that clear I would like the Chief Minister's amendment to read as follows: "in ensuring

that the most cost-effective use of public resources is made in implementing the policies of the Government and in ensuring that public monies are spent only for purposes approved by this House". I am uncoupling the appropriation mechanism of the House point from the cost-effectiveness point because I think they are two separate points. If the Chief Minister can think of a better way of expressing the Appropriation Bill point that is the only point I am trying to make.

Question proposed in the terms of the amendment moved by the Hon P R Caruana.

HON CHIEF MINISTER:

I agree with the point that the Leader of the Opposition has made that they are two separate things and certainly it is not the intention of the original wording to say that it is only there to ensure the expenditure approved by the House being cost-effective in relation to the policies of the Government. The advice that he gives the Government as to where we are being cost-effective in our policies is independent of the fact that whether we are being cost-effective or not we still have to satisfy the Principal Auditor and this is what this report is. This is a report of the public accounts of Gibraltar and the comments on the public accounts of Gibraltar to which the original mover has been making reference are all to be found in heads of revenue and expenditure which are presented to the House in the budget. I accept, for the sake of clarity, the amendment the hon Member is putting to separate the first from the second element of my amendment but I would want to make sure that it was reflected as being related to the expenditure approved by this House in the Appropriation Ordinance which is what is approved by this House.

MR SPEAKER:

So you add after "House" "in an appropriation ordinance"? The amendment proposed by the hon the Chief Minister is as follows: Delete all words after "Principal Auditor" in paragraph 3 and substitute by the following: "in ensuring the most cost-effective use of public resources is made in implementing the policies of the Government and in ensuring that public monies are spent only for purposes approved by the House in an Appropriation Ordinance".

Question put on the amendment, as amended, moved by the Hon the Chief Minister. Agreed to.

HON P CUMMING:

Mr Speaker, I must make reference to the remark of the Chief Minister with reference to the 'crumb of solace' I think were the exact words. Regrettably the denial of the crumb of solace has been mutual. I think we have achieved something by being able to find something that is acceptable to both sides. On the question of PAYE deductions, returning arrears slowing down as regards PAYE is true.

The total income tax arrears has risen escalatorily like others but the PAYE has gone down and the Chief Minister has said "You could have given this crumb of solace" and he is right. I could have said it. I did not. On the other hand, in amending this motion a crumb of solace also could have been given from the Government. Let us water it down a bit to make it acceptable to the Government. Less checks the balance to the power of the Government, yes. It sounds as if I am saying, if there is a dispute between the Principal Auditor and the Chief Minister, the Principal Auditor should win, no, I agree that is not so. For example, the deposit account in the Education Department, remained as the Government wanted it to, I think that is right. But it is also right that it should be regulated in such a way that it becomes leakproof. I do not think the Government objects to that account becoming leakproof. The purpose of referring to the handout of the university lectures entitled "The enduring principles of auditing"..... I do not know anything about the Macfarlane Report but I suppose that auditors would recognise it and ascribe some authority to it. I had talked about the importance of independence in the auditing function and it may be the constitutional role is not to confront the Chief Minister and win in an argument. That is not the mechanism through which I have seen and welcomed a democratic thing. It is more a question of availability of professionally processed information that the thinking is done for us as it were and we can draw the conclusions. I do not think the Principal Auditor should make any political statements either. What he has got to do is do the technical side for us so that we can draw political conclusions from it. It may be that sometimes there are uncomfortable conclusions for the Government but the Government has shown it is unwilling to welcome adverse remarks, not necessarily anything personal or whatever about them it is just an anomaly that is discovered and put right. We agree on that. There is no problem with that. The Chief Minister could have given a crumb of solace to this side as I gave it to his in advancing, as it were, this democratic element which, as the Chief Minister knows, we have complained about accountability and democracy and so on and this was an aspect of availability of processed information rather than imposition of the Principal Auditor's will. There is a little element of

misunderstanding here in this area, I believe. I will refer very briefly to the busting of companies to which the Chief Minister referred. Obviously, this is a sensitive issue. I cannot help remembering that years back, if my memory is right, when the frontier was shut a very important link to Morocco was the Mons Calpe. The AACR subsidised because it was very important and everytime I went on the Mons Calpe it was chock-a-block but the AACR was subsidising and they said they were doing this as a service to the community. When the IWPB Government came in, I think very early on, that subsidy was stopped and they did not go bust. They fended for themselves. It is a delicate matter because we cannot go round busting companies left, right and centre.

But on the other hand a philosophy of respect for the law in paying their Pay-as-You-Earn punctually will very soon spread if the Government does not take an easy view to this, that it is flexible, that it is elastic, that it is wrong, that they have got to pay up as the law requires for the benefit of all, that they must not rely on that as a benevolent fund for themselves. That is not on and a change in that philosophy will soon also filter out. That is my opinion. I think we have achieved something by being able to cobble a motion that is acceptable to all. Thank you, Mr Speaker.

Question put in the terms of the motion, as amended, proposed by the Hon P Cumming. Agreed to unanimously.

LT COL E M BRITTO:

Mr Speaker, I have the honour to propose a Motion standing in my name which reads: "This House:

1. takes notes of the Immigration Control Ordinance, (Variation to Schedule 1) Rules 1993, introducing the so-called '1st July law';
2. regrets that the laws of Gibraltar should discriminate against British subjects by leaving them with less rights in Gibraltar than the subjects of the other eleven member States of the European Community; and
3. considers that the making of important laws, especially those with possible political consequences for Gibraltar should be debated in the House of Assembly before being passed and not introduced by regulation since that undermines the purpose and constitutional role of the House."

Mr Speaker, few people reading yesterday's Gibraltar Chronicle and specifically the front page article and the

second paragraph of that article would have disagreed with the comments of the writer when he says, amongst other things, that relations between Gibraltar and Britain have reached a critical point. In fact, judging from comments and feedback that I heard yesterday, opinion in several quarters seem to be that relations were at a low ebb and maybe even at an all-time low and that in fact there had been a steady and progressive deterioration over the last few years. If this is so, Mr Speaker, then God help us because in that same issue of the Gibraltar Chronicle, the Chief Minister is reported as saying that in recent years the Government had been a model of behaviour in its relations with the British Government, that they had been carrying out and doing all the modifications to ordinances and laws requested by the British Government and that in fact he is quoted as saying that he is putting effectively the British Government on notice from now on he does not intend to play ball and intends to proceed on a much stronger path of presumably, confrontation and harder line. Similarly, he complains of lack of cooperation from the British Government in areas like the appointment of the Financial Services Commission, shipping registry, building societies, etc. But it is hardly to be wondered that relationships could have deteriorated when not only has the British Government seen the policies of the Gibraltar Government departing from the traditional democracies of Westminster, and adopting a line of adopting primary legislation by regulation without public debate in this House, of adopting a policy of lack of accountability and of deliberately not disclosing the full extent of Government's finances. Even more so in the context of the motion before this House where the implementation of the so-called "1st July law" has been done against the wishes or the advice of the British Government. Such actions, in the opinion of the Opposition can only serve to worsen our relationships with Great Britain. There is, of course, the question whether the whole of the law that we are talking about is indeed legal in an EC context and as such we have the report, again in that same issue of the Chronicle, attributed to the British Citizens' Association, that in a legal opinion given by a European Court judge, a Mr David Warren, the interpretation is that under Article 48 of the Treaty of Rome (Freedom of Movement) he considers that the 1st July law is indeed illegal in an EC context. There is no doubt that will be put to the test by others in other forums. Let us look more closely at the Government's aim in introducing this legislation and, as explained by the Government last summer the aim is simple and indeed laudible. Unemployment is on the increase in Gibraltar and the Government feel that by bringing in this measure they can, hopefully, bring unemployment for Gibraltarians under control and improve the situation. On the face of

it the Opposition would not quarrel with that aim, as expressed. We ourselves have said more than once that we support a policy of finding practical ways within the EC legislation to have priority of jobs for Gibraltarians. The Government may indeed say that this is exactly what the 1st July law sets out to do. But, Mr Speaker, it is not quite as simple as that. One cannot go about solving a major problem, like I recognise unemployment is, by dealing only one aspect in isolation of the repercussions and other aspects involved in the problem in other areas and of the consequential effects that such action of dealing with only one aspect of the problem can bring about. If the 1st July law were one that discriminated against all EC nationals and effectively gave priority to Gibraltarians, the Opposition would have had no difficulty in supporting it. Where the root of the objections of the Opposition lie is the fact that the law discriminates only against British Citizens and gives them less rights than other Community nationals. Let us look in more detail at what that discrimination entails and in a nutshell as from 1st July, British citizens have lost the automatic right to residence permits in Gibraltar and, similarly, a British citizen arriving in Gibraltar since that date now needs a work permit to work in Gibraltar. As I have already said, this is the root of our objection, that this discrimination applies only to British citizens and not to members of any of the other eleven Community States. It is ironic, Mr Speaker, that we, Gibraltar, should be discriminating against British citizens when Britain has been our traditional friend, our supporter in the long term over the years and indeed we are putting British citizens at the bottom end of the queue and lumping them with Moroccans and other non-EC nationals in Gibraltar and giving over and above them greater rights to Spaniards, amongst other Community citizens, where Spaniards have, traditionally been the source of most or a great proportion of Gibraltar's problems. In this context, I would appreciate a clear indication from the Government whether they still stand by the declarations made shortly after the implementation of the 1st July law that British citizens working in Gibraltar prior to 1st July would not be affected by this law because my information is that there are difficulties being experienced by people who were working in Gibraltar before 1st July and who are experiencing problems and continue to experience problems. I have a number of documented cases that have been given to me which I will not seek to detail in any amount of detail but I will summarise them as best as I can to give the House information on the sort of thing that appears to be happening.

We have a Mr A who has been in Gibraltar since March 1992 and who was employed prior to 1st July 1993. He lost his

job and is trying to find a new job, because of red tape etc within the Employment and Training Board, he lost the opportunity of finding a new job and subsequently he has been trying to get information from the Employment and Training Board but as far as has not succeeded in being given information or being sent for interview for any further employment. Another case, Mr Speaker, a Mr B who has been living in Gibraltar for 21 years. He has a Gibraltarian wife and child. There has been a change of employment, and has been finding that he does not get offers or he is not sent by the Employment and Training Board to possible jobs that he can apply to. The consequence has been that Mr B has now been repatriated to his country of origin, Northern Ireland, and effectively has become separated from his Gibraltarian wife and his family because he has been unable to find employment. In the fields of education, Mr Speaker, we have a Mrs C who had been in Gibraltar prior to 1st July, whose son had been accepted in the Boys' Comprehensive School for the start of the 1992 September term, who returned to UK to sell her home and returned to Gibraltar after 1st July, after an interval of only two weeks and on returning she was then told that her son could no longer be accepted into the school to sit his final 'A' level exams. In the field of medicine, Mr Speaker, we have Mrs D and this is a much sadder case, I would think, who was refused confinement in St Bernard's Hospital two weeks before the due date of the arrival of the baby. The due date given by the hospital itself where she had been attending for treatment during her pregnancy. She had been in Gibraltar since 1990 and had been working since 1991 and she was refused her treatment in the final stages, I am told, because she had stopped working and she was living in Spain and had to transfer herself without the help of an interpreter to La Linea where she was attended in a Spanish hospital and despite having further difficulties with St Bernard's about her medical records not being released without a court order, she eventually had her baby happily delivered in Spain. I illustrate this as some of the sadder aspects of the effects of the law. I am also told that a number of people are being repatriated by the charitable organisations and I have details of one particular one by SSAFA, which is the Soldiers', Sailors', Airmen Families Association, who have repatriated at their own cost and who now say that they will be unable to repatriate anymore. I have a total of four single persons, one family, three couples and I am told that similar action is being taken in repatriating people who are finding themselves without jobs suddenly and without income and having problems by other charitable organisations.

We also bring up in the motion, Mr Speaker, the aspect of important laws being brought on to our statute books

without coming into this House for public debate. This is a particularly flagrant case of that abuse, Mr Speaker, in that in this particular law it seems to us was introduced in a deliberately surreptitious way, almost one suspects, to see whether it would slip through without anybody noticing. A law of such far reaching consequences, of such possible and probable political difficulties for Gibraltar was introduced as a legal notice in the Gazette under the Immigration Control Ordinance and enshrouded in legal jargon in the definitions of a Community national. This has very much the appearance of trying to slip through so that it would not come to the attention of people like members of the Opposition. We, of course, have criticised and censured and I will merely repeat it once more, the practice of doing this without bringing such legislation to this House and we shall continue to criticise and censure the Government whenever they do it as they have done on this occasion and whenever they do it in the future. I will also take exception at this stage, on the attacks that were made on the Opposition at the time that the introduction of this law was highlighted when the Opposition Members who brought the matter up were accused, almost, of being unpatriotic and of being treacherous by daring to publicise something like this and being accused of being the ones who were going to do Gibraltar harm by bringing this out into the open. We totally and utterly refute such accusations whether they come from the Government or whether they come from organisations linked to the Government that attempt in any way to stop members of the Opposition bringing matters up like this in public in the execution of our public duty as elected members of this House. Gibraltar is still a democracy and, hopefully, will continue to be a democracy for many years to come. This Opposition has a job to do and we will not shirk from bringing up matters like this whenever we feel that we have a public duty.

Talking about public opinion, Mr Speaker, we warned, at the time, of the detrimental effects that this legislation could have and would have on the man in the street in UK, on public opinion in UK, and on Members of Parliament. There have been numerous examples of articles in the press which I would also highlight at some stage. Members of the Opposition were being accused of promoting this. This is as far from the truth as one can get and I will only as, an example, quote from the latest issue of the Expat Investor with a headline which says "Fury on the Rock" and a subhead line of "British citizens in Gibraltar are fighting a new decree from local Government that restricts the free movement of workers from UK to the Rock; Peter Jolly reports on the growing anger. Blatant discrimination is how furious UK

workers in Gibraltar are describing amendments to the Immigration Control Ordinance" is how the article beings. Government Members may well laugh. This happens to be the latest that came to hand and I was not going to start researching on other articles but the periodical itself is immaterial. It is the problem that is being highlighted in UK and the consequent bad effects on people like Members of Parliament whom we seek, when Gibraltar needs the help, to influence in bringing the British Government to help us. Indeed, it is extraordinary that at the time when this legislation was introduced the SDGG were at that time and presumably still are, carrying out a letter-writing campaign lobbying support from British MP's. At the same time as they were doing that I think it was my hon friend the Leader of the Opposition who said at the time that we were shooting ourselves in the foot by introducing this law with the consequential bad publicity that it was bound to receive.

Mr Speaker, I stress once again, we cannot attempt to solve a problem by focussing on one small area of it and dealing with it in isolation of the overall domino effects and consequential effects that it can have in other areas. It is inadvisable, to put it mildly, to bring in legislation like this that discriminates against Britain, against the country that has been our only reliable and long-term friend irrespective of what the Chief Minister said earlier on and on whom we have to rely for protection in the long term. In this respect, Mr Speaker, I put it to the Government that this is a bad law, a bad law which, by implication, they admit themselves by their own actions that they have used only once according to the information given to us in Question Time at this meeting of the House. They have used only once since it was implemented and if it has been used only once presumably it is either not needed or there are other measures that have been found which can achieve the same effect without the need of the law. A law, Mr Speaker, that is almost universally unpopular in Gibraltar. A law which attracted, when the Opposition organised a petition earlier on this year, 10,863 signatures and I would say at this stage that this number would have been far greater if those who organised it and were collecting signatures had decided to carry on beyond the point where it was felt that enough was enough and that the point was being made sufficiently. Large sectors of Gibraltar were not covered in the door-to-door campaign and my guesstimate is that between 1,500 and 2,000 extra signatures would have been collected at the rate that they were being collected up to that stage if the door-to-door campaign had been continued.

In conclusion, Mr Speaker, I ask for the rather unlikely course of action judging from its record since 1988, from this Government not to consider it as losing face or to think that the Opposition is scoring points or winning points, but to seriously consider repealing this law now or in the near future rather than awaiting for a full year to prevent doing further damage to the image of Gibraltar in UK and in the EC, to prevent the possibility of others instituting court actions and the consequent bad publicity that that might entail and, as I say, in the interests of Gibraltar as a whole, to seriously consider repealing the law at this stage rather than allowing it to continue on our statute books and with that, Mr Speaker, I commend the motion to the House.

Question proposed in the terms of the motion moved by the Hon Lt Col E M Britto.

HON P R CARUANA:

Mr Speaker, very briefly, just to emphasise the points. The danger of this legislation is not only in the adverse effect it might have on a body of British parliamentarians, members of the Commons and members of the Lords who are not Gibraltar's friends. I know that there is a body of MP's in Britain who are basically on our side and whom upon the Chief Minister having taken the time to explain the exact details of this Bill will say "yes, you have to get on with protecting yourselves against unemployment, we understand....." but as not all 600 or whatever MP's and it is not the Lords and they will not all be so understanding, not of the measure itself, which I repeat is not objectionable if it were of universal application, it is in the element of the fact that in effect it applied only to United Kingdom citizens. Already, and I will not read from the Hansard again of the House of Lords because I did so at Question Time, so I will just refer to it by date. In the Hansard of the House of Lords of 18 October 1993 already questions were being asked of Baroness Chalker expressing surprise that British citizens should be discriminated against in this territory and Baroness Chalker said "That surely cannot be right, I'll look into it". Clearly, the reasons for this are not as universally known as perhaps the Chief Minister would like. Although I attach a great deal of importance to parliamentary opinion, ultimately it is not really the effect on parliamentary opinion that most concerns me because I think that the Chief Minister over a period of time might be able to persuade a sufficiently large number - although I do not think he will ever be able to persuade them all - that the element of anti-British discrimination is not actually anti-British. It is not that we have wanted to discriminate against the British. He may be able to explain to a

number of MP's, although not to all of them, that the singling out of the British only is a quirk of Community rules and what we have been able to do. He will certainly not be able to explain that message to British public opinion. Ultimately, my concern is that if this measure and other measures that Gibraltar may now have to take on its chin of what the Chief Minister has announced of this having to get tougher. So this plus that plus any other things plus any number of other items eventually will chip away at the sympathetic reception that Gibraltar in its predicament receives and enjoys in British public opinion, by which I mean the ordinary man in the street. Ultimately, the British politician, when the going gets tough, let us be clear, will presumably do whatever he thinks he can get away with politically and domestically. I always say, perhaps too cynically, that Gibraltar's very last line of defence is the weight of British public opinion. The day that British public opinion comes to view us as a hostile force and we use British public opinion it creates fertile grounds for politicians to consider the possibilities in the UK which they presently would not dare to consider for reasons that British public opinion would not tolerate it. I fear that as some of these individual complainants start writing to their MP's that this matter is going to get much more high profile treatment in the House of Commons and that MP's who presently perhaps do not even know about it will get to know about it, no one is going to stop to read small print, to read the explanations, what they are going to see is the bland result. I could not help noticing the Minister for Education grimacing when my hon Friend Lt Col Britto was saying that this was a universally unpopular law. I do not know if by that he was suggesting that he did not think it was universally unpopular. I am not going to repeat our experiences on the door-to-door collection but I think the Minister should not delude himself that the persistent and incessant contributions of a handful of professional letter-writers to the letter-writing column of the Gibraltar Chronicle does not represent public opinion. I think that public opinion on this issue is much more actively reflected by the petition that we raised than by the three or four people who persist in linking this law to Gibraltar's unemployment problem as if we did not. We have never accused the Government of doing this capriciously. We have never accused the Government of doing this for some ulterior anti-British motive. We have always recognised and linked that the Government have done this in an attempt to grapple with the problem of unemployment - an endeavour in which we support them. The difference between us is that we think that there could be a very high political price to pay at some unknown time in the future when we may need to start calling in markers. It is ironical that the Chief

Minister said recently, I do not remember if it was the cocktail party he gave at the Garrison Library for the Minister of State last week, or perhaps it was on television, where he said that one of the things that we will now start doing is raising our profile with our friends in the British Parliament and with our friends in Britain to try to embarrass the British Government. I really do not believe that this measure is going to assist him an awful lot in that measure. That is the concern, we know that the Government Members are not going to support this motion. We know that they do not share our concerns in relation to the possible effect of this law. Therefore, we would settle for the hope that they will remove this law from the statute book at the very earliest possible opportunity. Having said that we will review it in a year they must not regard it as evidence or as a matter which goes to their virility if they could possibly come to the conclusion in less than a year that the law had served its purpose. I do not think that they ought to wait for a year just because they told me in August, "And we are not looking at this for a year". I think that given the number of cases that are arising, given other mechanisms that might in practice be in operation or found, the sooner this law, for its nuisance value, for its potential mischief value, for its potential bad PR value, whether justified or unjustified it ought to be removed from the statute book as soon as possible and we urge the Government to do that. Just to endorse and finally to enorse the last point of the Hon Col Britto that this law really was introduced in a way which, given its impact, was quite unacceptable. It all turned the 1st July law and its consequences are in effect caused by one word in the Bill. It is the use of "other member States" and it is that word "other" tucked in to a part of the Bill which seems pretty innocuous has this enormous effect as this discrimination which..... I think that a lesser desire to try and creep it through in the hope that the Opposition might not notice it, would have required this to be done a little bit more openly and certainly we would have expected something that was going to have this effect in terms of our potential relations with Britain to have been brought to the House, for public explanations to be given as to the reasons. The Members of this House could have expressed certain views and then Hansard would show exactly why this has been done and the Parliament of Gibraltar would have done it as a parliament and it is to be regretted that on a matter of this importance this House was not brought into operation.

HON F VASQUEZ:

If I may just intervene very shortly in support of the sentiments expressed by my hon Colleagues just to point out that in fact the hon Leader of the Opposition was mistaken in one crucial aspect in his address when he is referring to the small word in the Bill. Would that it was a Bill. It is a regulation passed under a legal notice and this only serves to underline the substance of his submission. Again to add further weight to what my hon Colleagues have said, I just wish to add this one point. The fact is that the effect of the Immigration Control Ordinance amendments and the effect of the 1st July law which must not be overlooked is that British nationals are the only EC nationals that are not allowed to come and work in Gibraltar automatically and conversely the other side of the coin, it is that Gibraltar is the only territory in the EC to which British nationals are not allowed to go and work and whilst appreciating all the reasons that the Government are going to give to the House in support of the measure, one must not overlook the impact that that one fact has on the provisions. I know that the Government are going to compare Gibraltar in relation to the Falklands and with the position of a number of other small territories in a similar situation to ours. The fact is that none of those small territories are part of the European Community and we have that perceptual problem that we have to get across that here we are seeking the political support of Britain whilst telling British nationals that this is the only spot in the EC to which they simply are not allowed to come and work and also telling everyone here in Gibraltar that whereas all the other nationalities of the EC are free to come and live and work in Gibraltar, British nationals are not allowed to. That, in view of the Opposition, is an insurmountable perceptual problem in relation to this Bill. For that reason alone Government should think very carefully before maintaining this enactment: the 1st July law. That is all I wish to say.

HON CHIEF MINISTER:

Mr Speaker, the mover of the motion said that the response they have had to this piece of protective legislation was one which had led to people accusing them of being unpatriotic as if wanting to silence them and that he hoped that democracy would last for a very long time in Gibraltar and that people would be able to say what they feel. Of course, people are entitled to say what they feel. People are entitled to say that this is something which involves us telling UK nationals that they are not welcome and other people are entitled to say

that that is being unpatriotic and shooting us in the foot. Both are permissible under democracy and therefore the fact..... [Interruption] It would be totally wrong to go round saying to people "You must not criticise Col Britto for the fact that he is supporting the expatriates which in the main live outside Gibraltar and in the main do not particularly like Gibraltarians and in the main reflect this in the Chronicle. You must not do that." I hope that democracy will last long enough in Gibraltar to enable people to continue to criticise the Hon Col Britto when they feel that he ought to be criticised. I think that the members of the Opposition have been partly responsible for encouraging these people to form themselves into an association and to make all sorts of demands which the hon Member ought to know better. How can he come to this House and say "We should have done this by legislation, because if we had done it by legislation we would have been able to discuss all the implications". We did not do it by legislation. We introduced a rule which allows work permits to be required from people after 1st July and then he says he has got all these cases which he is going to refer to by the letters of the alphabet. Mr A and Mr B and Mrs C and he starts quoting cases which manifestly have nothing to do with the rule introduced on 1st July. Nothing at all to do with it. There is nothing at all in the requirement of work permits that said "You cannot have a baby if you are pregnant". There is nothing at all in the requirement of a work permit that says "You cannot send you child to be educated." He can go to school whether one is working or one is unemployed because the hon Member surely must be aware of the provisions of the Education Ordinance. The Education Ordinance does not say people who work in Gibraltar are entitled to send their children to school. It says people who live in Gibraltar and it said that before 1st July 1993 and since 1984 and it was introduced by the AACR not by my administration, supported by the Hon Col Britto. They introduced it, with our support let me say. We supported that from the Opposition but it was their initiative before the opening of the frontier and before the signing of the Brussels Agreement, there was no reference specifically to the need to live in Gibraltar. It did not matter. One could not live anywhere else; the frontier was closed. The AACR suddenly realised the danger of having to give free education in Gibraltar to unlimited numbers of Community nationals, which would include those who worked and those who did not work. It would include those who could prefabricate spurious jobs, - not too difficult - give themselves self-employed titles, - not too difficult - and if we did it for UK nationals whom might otherwise have been paying for a UK education because they did not like the free Spanish education to which they were entitled and continue to be entitled, it

might even be an appealing thing for Spanish nationals. If we are doing it for Spanish nationals and UK nationals who may have contributed very little to Gibraltar, what right have we got to say to Moroccan nationals that they should not bring all their children over to be educated here? The AACR, conscious of that danger, brought legislation to this House and we, as a responsible Opposition, conscious of that danger, gave them our full backing. That is the complaint the hon Member has brought to this House today. Nothing to do with the 1st July rule. Nobody has been told in any school in Gibraltar "You cannot have your child in Gibraltar because you have arrived in Gibraltar after 1st July" and I can tell the hon Member that the same cases that he got, A, B, C, D, have already been put to Jeremy Greenstock, to the Deputy Governor, to Ernesto Montado and they have all been answered. He does not need to go through the alphabet, I know the names. I can tell the hon Member that when the representatives of the expatriates went along they made it very clear that as far as they were concerned now that they had got their teeth into this they were not letting go. What we are really talking about is a group of people who live in La Linea. The secretary of the organisation lives in La Linea and she feels that if she has been running a travel agency in Gibraltar for a number of years and she now lives in La Linea because it is cheaper why should she be entitled to everything in Gibraltar? Because under Community law she is not entitled to it in Gibraltar, she is entitled to it in Spain. We have had a situation where somebody that had difficulty in getting a job, the one that lost the job in 1990, Mr C was here before July 1993 and he is a frontier worker and because he is a frontier worker he is not entitled to register as unemployed with the Employment and Training Board. We have got 1000 UK nationals living in La Linea and those 1000 UK nationals living in La Linea before 1st July and after 1st July and irrespective of the law of the 1st July, if we repeal it tomorrow, are not entitled if they become unemployed to be treated as if they lived in Gibraltar. Obviously there is a danger that people will use addresses. We have found this. We have found that there was a particular building in Prince Edward's Road where we almost thought we would need to send the structural engineer to make sure it could take as many people as they had registered there. When people become difficult it may well be because somebody turned up with an address where already there are levels of density of population in that particular building which makes somebody suspicious and they said "We will better check whether he is really there" and then we go there, we talk to the neighbours, we find out that they do not know this guy from Adam and that he is living in La Linea. I can say that these individuals have gone to see the Deputy

Governor with their complaint and the Deputy Governor has pointed out to them that "This is not Gibraltar discriminating against you, you are supposed to get your unemployment benefit in Spain under Community law." They say "Ah, yes, but you know what Spain is like." Alright we know what Spain is like but it happens to be one of the few things where we are actually entitled to benefit from Community law and because Spain is like what everybody knows what it is like it does not mean that we are going to have to pick up the bill. In the majority of cases this is not the case and we recognise that UK nationals may have difficulties with the language, may have difficulties with the medical services, may have difficulties with education, may have difficulties with their rights to register as unemployed and to get unemployment benefit in Spain for a year and a half, because they can only get it here for thirteen weeks the same as all of us. The fact that we recognise those problems does not mean that we are going to pick up the responsibility and people are repatriated because they are distressed British nationals, not since 1st July. They were distressed British nationals before 1st July and certainly we cannot assume the responsibility for everybody that chooses to land on our doorstep. I wish we could. I wish we were so prosperous that we could say that everybody could come here. We did not make any attempt to take this action until we had exhausted every other avenue. This is known publicly. I have explained it publicly. Opposition Members choose presumably deliberately to ignore this or is it an accident? If the hon Member said, in moving his motion, that we acted against the advice of the United Kingdom, is he saying that he believes the UK expatriates and he does not believe me? Because I have told him that the advice of the United Kingdom was that this could be done. The hon Member said we had done it against the advice of the UK. No, we did not do it against the advice. If the United Kingdom had said "My advice is that you must not do this" then we would have had a problem. The advice of the United Kingdom was that it was a matter for us and I will go again through the history of this so that hon Members maybe will finally get to understand that this is not us going out of our way to upset British public opinion or to upset the British Government. This is us finally getting cheesed-off. That is what is happening and if the hon Member is saying that if the British Government is dissatisfied about our unparliamentary practices I have already explained on innumerable occasions that passing everything to do with Community law by regulation out of which we are being left out, apparently because as I have explained Article 22A of the 1972 Act does not allow them to apply the regulation, this is something the UK do consistently. In any case, if we chose, as a matter of political decision, to do it and they chose to

do something else, who are they to get upset with us? The only people who have got the right to get upset with us are the people that the Opposition can convince in a general election to vote against us. Nobody in London has got the right to tell us here what we do by primary legislation and what we do by subsidiary legislation. The hon Member can bring a motion here and I will say to him "You may consider that the making of this law should have been brought to the House, and I consider otherwise, and I have got the majority." But it would be colonialistic in the extreme for me to say "I do not agree with you but I better do it in case they get upset in London." There is no risk of that, let me assure the hon Member; no risk of that happening.

Mr Speaker, I propose to move a lengthy amendment to the motion which accurately reflects the events and which ends on a note which puts the onus of responsibility where it lies and which I hope, therefore, Opposition Members will support because had the British Government honoured its responsibilities in this area, instead of failing to honour it like they have failed to honour it in a number of other areas, the measure would have been unnecessary. Therefore, we cannot accept that the Opposition say to us their only complaint is that this applies to UK nationals and not to other EC nationals and they do not go on to say that it does not apply to other EC nationals because the British Government has failed to take action to get that to happen because they know that the British Government have failed to take action and they know that I have said so. Mr Speaker, the amendment to the motion that I am proposing is to delete the second and the third paragraph of the hon Member's motion and to replace those two paragraphs by eight new ones.

I therefore propose that the motion be amended by deleting all the words after "the 1st July law" which are paragraphs two and three and substituting the following:

"2. takes note that in 1984 the matter was raised with the EEC Commission to seek derogation from the free movement of workers in view of the constraints of the size of the Gibraltar labour market,

3. takes note that the purpose of the free movement of workers in the EC is not to disrupt the labour market of a territory or put its financial stability at risk,

4. takes note that the UK has responsibility for the external affairs of Gibraltar under Article 227(4) of the Treaty and for the territory's financial stability,

5. takes note that since August 1992 the Government of Gibraltar has been making representations to Her

Majesty's Government pointing out the increased competition for jobs in the declining labour market principally by the influx of newcomers and the ending of the transition for Spain and Portugal,

6. takes note that the advice of Her Majesty's Government was that under Community law restrictions on the free movement of new workers was only possible in the case of UK nationals seeking employment in Gibraltar,

7. takes note that the Government of Gibraltar accepted the political responsibility" and we still do "for introducing restrictions on the free movement of workers in the case of UK nationals arriving after 1st July,

8. takes note that these restrictions are for a trial period of up to one year, and are designed to protect UK nationals already in Gibraltar prior to 1st July as much as other local residents," a point raised by the Hon and Gallant Col Britto.

"9. shares the concern of the Government of Gibraltar in wanting to protect Gibraltarians and other long-term residents from competition for limited job opportunities from newly arrived outsiders.

10. calls on Her Majesty's Government to pursue the matter with the EC or to provide alternative solutions to deal with the disruption of the local labour market created by increased competition for jobs brought about by the uncontrolled arrival of new job-seekers."

Mr Speaker, I can say that I can speak with some authority on this subject because the matter was raised in 1983 with Baroness Young during the AACR term of office. In 1984, as Leader of the Opposition, I pointed out to Sir David Hannay that we were already attracting new UK workers living in La Linea and that whereas with a closed frontier the size of Gibraltar put a limit to how many people could arrive, with an open frontier we faced a new situation. When we made the case, the British Government's position was that the Community would not be willing to give us a derogation but that the seven-year transition period protected us. As a result of representations made to the Commission there was a response in 1984 by Mr Ivor Richards, on behalf of the Commission, transmitted to us here by the Foreign and Commonwealth Office, which said that although the Commission had rejected our arguments they were prepared to look at the situation of Gibraltar if a problem arose when it arose, and that a Community solution would be found and that they felt that the transition period protected us for seven years and that we could raise it at the end of the transition period. In August 1992, I

wrote to the British Government making reference to the undertaking we had had in 1984 saying "The transition period has now ended, we have had six months of no controls and we are finding a major problem and there is clear evidence now of increasing unemployment amongst residents and an increasing proportion of frontier workers which by the end of 1992 had reached, Mr Speaker, one third of the private sector. I put all these statistics to London and the response from London was the one that I had given "We do not feel that a strong enough case to take to the EC". Let me say, that we were also told at the time - obviously their memory is not as good as mine - that the Accession Treaty for Spain and Portugal had attached a joint declaration on the free movement of workers of which I have a copy here for the information of Opposition Members and that we would be able to make use of the joint declaration if we had a problem at the end of the transition period. We have got this in writing: black upon white. The joint declaration on the free movement of workers said "The enlargement of the Community could give rise to certain difficulties for the social situation in one or more Member States, as regards the application of the provisions relating to the free movement of workers. The Member States declare that they reserve the right, should difficulties of that nature arise, to bring the matter before the institutions of the Community in order to obtain a solution to this problem in accordance with the Treaties established in the Community and the provisions adopted in application thereof." Here we have a situation where, in 1984, we get told by the UK "Do not worry. You are being unnecessarily cautious, if and when the time comes we will look after you" and we all accepted that. In 1992 we said to them that we were worried, and what we were worried about. Worries that I, personally, put to them 10 years ago are the same ones that I am expressing today in this House. This is not something I invented on 1st July 1993. I am on record saying "This can happen to us and what guarantees have you got to protect us if it happens?" The answer was "You do not need to worry because the Commission is aware of this, we made the necessary representations, you must trust the British Government, they know best and there is this joint declaration which is not time limited. Even after the seven-year transition period this declaration will allow the UK to protect Gibraltar." Mr Speaker, if in July 1992, we had representations from the unemployed, if the unemployed write to His Excellency the Governor in August 1992 and he replies to them "I am very sympathetic but I am sorry there is nothing I can do, or the British Government can do because unemployment is a defined domestic matter." This is how it starts and I get given a copy of that letter and I wrote back and said "I accept my responsibility. It is a defined domestic matter but I

am constrained by what I can do in a defined domestic matter because Community obligations override what I can do and you are responsible under Community obligations for my external affairs and you are committed to raise the matter with your Community partners if I have got a problem." I wait a year for them to do something about it. A year when they fail to honour what was promised to us in 1984 to stop us making problems prior to Spanish entry because the problem in 1984 was that it was the run-up to the negotiations that the Brussels Agreement was round the corner and that the last thing the British Government wanted was Gibraltar saying "We must not allow Spain to come in unless we have got a guarantee that we will protect the Gibraltar labour market." We asked for a quota to be applied irrespective of nationalities so that the numbers of frontier workers could be kept to a manageable level. A unanimous proposal from both sides, proposed by us but the Government under the AACR supported it and it went as our joint position.

That is the history of this. This is not as being anti-British. If the people that are in the BCA, as they now call themselves, chose to present it in that way let us not give any encouragement to that view. Let us be also ready to defend our home patch and say "These people may feel aggrieved, they may feel resentful, they may have this perception, or they may have the other perception" but the true facts are documented and because they are documented that gives me an advantage over everybody else in that when Lord Archer asked Baroness Chalker the question that he did in the House of Lords, Lord Archer got a dossier spelling out what I am telling Opposition Members and when he got the dossier he wrote back saying "Thank you very much for all the detailed information you have given me. I fully understand why you needed to take this measure and you can continue to count on my support." Now we have got one more supporter out of this, not one less, as a result of the 1st July law. What I am putting to the Opposition, frankly, is I would prefer, notwithstanding the fact that they disagree with the manner in which we have gone about introducing the rule, which I respect their view but I do not share, notwithstanding that difference which is a genuine political difference which we are entitled to have, we should nevertheless come together on maintaining that the need to do something about it has been exclusively and entirely motivated by the failure of the UK to act on our behalf and do something different and that we should continue to provide that opportunity to the UK to do something different and this is why my motion, as amended, proposed to end not on a negative note but by reinforcing the line that the Government has already taken in asking the United Kingdom to take the matter up with the EC and to come up with something different to

the 1st July rule. What they cannot do, and what I would not accept as the head of the Government, is that they say "You cannot do this, and you cannot do that," but tell us what we can do which is the same scenario whether we were talking about problems in the labour market, whether we are talking about the shipping registry, whether we are talking about building societies, the point that I wish to make to hon Members is this is not something that started on 2nd July. I am telling the House that what happened on 1st July is the consequence of a series of failed attempts on the part of the Government of Gibraltar to get the United Kingdom to act which they do not have to do because they like us. They do not have to do it because of goodwill. They do not have to do it because of British public opinion. They have to do it because it is their responsibility. That is why they have to do it. It is not that they are doing us a favour, it is that they are charged with that responsibility because they do not want us to have direct representations in the European Community. They do not want it because it is going to upset Spain. Fine! But if they do not want me to be there, they do not even want me to vote for one tenth of one member, then they have to make sure that they are batting for my corner in my name. The point that I have been making in recent public statements is that I feel the United Kingdom is in fact reneging on its obligations because its obligation is to defend us even if it gives them a headache and when the power that has responsibility for us says "Since I do not like having headaches I am not going to defend this guy", this is like a father failing to look after a child. The father may want to come home and say "I want to put my feet up" but instead of putting his feet up he has got to feed the child. We are saying to the United Kingdom "What you cannot say to us is, we cannot do any of the things that we would like to do to solve our problems. You are there telling us 'this will work and that will not work, this will pass Community law and that will not pass Community law'". At the end of the day the problem does not disappear. I am prepared to say to the UK "You tell me what to do" but they do not tell us what to do. They do not tell us how to overcome the problem and they have not gone even now, Mr Speaker, months after we raised it with them, they have still not gone to the Commission. I can tell the House that in 1984 they were not keen to go at all and I think, with the benefit of hindsight, the exercise of pressing them to put the matter officially was worthy at the time to us, it appears a waste of time because we got nothing. With the benefit of hindsight at least what we have is on the record, a promise to do something about it if and when a problem arose and that is the promise that we are today entitled to cash in. So far we have been unsuccessful in cashing in. A cheque dating from 1984 which we have been

trying to cash since August 1992 and here we are in December 1993 no nearer cashing it. What I am saying is, Mr Speaker, I hope that being able to go back on the attack as it were after this motion, I hope will produce a more positive response than we have been able to produce until now and I hope that they will be able to come up with some solutions in January and that we are able then to say "Because other things are going to be done, we do not need to continue operating the permit system" but I can tell Opposition Members that limited though its usefulness may be, until I have something better to put in its place, my inclination would be to keep at least that control limited though it is. I commend the motion, as amended, to the House.

Question proposed in the terms of the amendment moved by the Hon the Chief Minister.

HON P R CARUANA:

Mr Speaker, I have to say that I have no difficulty really with the terms of this amendment at all. My only complaint about it is that as an alternative to my motion and in an attempt to get something that we can both produce together for the sake of unanimity, it simply fails to take note of the Opposition's position. I do not expect the Government to subscribe to a motion or to any additional paragraphs that accept the Opposition's view but I am going to suggest to the Chief Minister orally, initially, to see if it sounds alright to him, subject to going into it in writing, whether there are not three amendments that he would accept to his amendment which would really be little more than taking note of the Opposition's position. The first one would be instead of deleting the existing paragraph 2. of the motion altogether, would he accept the following paragraph 2:-

"regrets that it should have become necessary in the opinion of the Government, to discriminate against British subjects, by leaving them with less rights in Gibraltar than the subjects of the other eleven Member States of the European Community."

That is point number one. It regrets that it should have become necessary in their view, but this is their view, presumably they regret that it has become necessary and presumably the position of the Government Members is one that it has become necessary and two that it is regrettable that this has become necessary. There is no doubt as to what the factual effect of this is. The effect is albeit unintended but it is to discriminate against British nationals.

The second proposal is in paragraph 7. of the Chief Minister's amendment and I would like him to agree to add after "1st July" the words "and takes note of the Opposition's concern about the effect of this measure in other matters of importance to Gibraltar." I am not asking him to share the concern. I am not asking him to recognise that the concerns are justifiable. I am simply asking him to note that that is our concern. The House takes note of the Opposition's concern about the effects of this measure and similarly in respect of paragraph 3 of the existing motion. I am quite keen that his paragraph 10 should stay as the last paragraph and I do not want to propose anything at the end, introducing something immediately before 10 that would read something similar "takes note of the Opposition's view that important laws especially those of possible political consequence....."

Mr Speaker, those are the three requests that I will put to the Chief Minister. My difficulty, Mr Speaker, is that whilst I agree with the amendment, it really makes no recognition at all of the fact that it is a different motion and that the position of the Opposition has been that there is an issue which is this concern and which I simply ask the House to note what it is without accepting the concern itself which is not mentioned in the motion at all as if we had no rational reason for having originally taken a different view, because this really is a separate motion.

HON CHIEF MINISTER:

Mr Speaker, the Government can only accept one of the three points made by the Opposition Member and that is that just like the motion takes note of the fact that we have accepted the political responsibility for introducing the restriction on the free movement, then equally the House should take note of the concern of the Opposition for this measure. Frankly, if we are saying we are introducing restrictions on the free movement of workers in the case of UK nationals, it follows that we are treating UK nationals arriving after 1st July differently from other nationals arriving after 1st July. Whether that is discriminatory or not depends on whether one thinks they are being deprived of something they are entitled to and the UK view is that they are not entitled to free movement. If two people have got the same right and we acknowledge the right of one and we deny it to the other, that is discrimination. But it is not discrimination, for example, that we do not give social assistance to foreigners because under Community law we are not required to give social assistance to foreigners. The foreigner may feel it is discrimination because he is getting inferior treatment. The British nationals are

getting inferior treatment in Gibraltar because the British Government view is that that is all they are entitled to. We do not accept that what we have done is introduce a law to discriminate against them and certainly although we are aware of the view of the Opposition as regards the use of subsidiary legislation we do not even note it. The reality of it is that I think we have two choices. Either Opposition members vote against my amendment and in any case I am prepared to accept what they have put, not in exchange for anything, but because I think it makes sense because the motion in that particular paragraph exclusively makes reference to the political position of the Government and no reference to that of the Opposition whereas for example two paragraphs further down by putting "shares the concern of the Government of Gibraltar in wanting to protect Gibraltarians" we are recognising that they want to protect Gibraltarians as much as we do.

HON P R CARUANA:

Would the Chief Minister be able to take a different view if instead of this amendment of regret that it should become necessary to discriminate, where I have put "and takes note of the Opposition's concern about the effect of this measure in other matters of importance to Gibraltar and regrets that it should have been necessary to introduce the measure." Really, all I am trying to introduce into the motion is an element of regret that it should have been necessary to do this in order for these reasons so that it should not appear.....

HON CHIEF MINISTER:

The only way that I can regret that it was necessary is by regretting the negligence of the British Government and I am not sure I want to do that. But as far as I am concerned that is what makes it necessary and therefore, Mr Speaker, I am not apologising for the measure. I am explaining why we have been put into that situation and it may not be the intention of the hon Member, by putting the word "regret" there to give a semblance of any recognition that the Government had acted wrongly in any way. People are entitled to think we did the wrong thing and when we exercise judgement we may make mistakes of judgement. I am not disputing that but if we had to decide today we would do the same thing so how can I regret doing it if I am saying to the House today I would repeat the action.

I feel, whether the hon Member intends it or not, that the perception subsequently will not necessarily be the one that he is seeking to create and therefore I think we can meet him on the point that he has made which I accept

the validity of because at the end of the day he feels he cannot support the amendment which is being treated by you anyway, Mr Speaker, as two separate motions, it seems to me that if they are treated as separate motions there is nothing to stop them voting in favour of both. We may vote in favour of one and against the other but they can vote in favour of both.

HON P R CARUANA:

Mr Speaker, notwithstanding that I have only managed to negotiate one of the three things that they asked for, we would support a second motion in terms of the Chief Minister's amendment, the one point that I have successfully negotiated with him and then we shall vote separately on our own motion.

HON F VASQUEZ:

Mr Speaker, if I may be allowed a short intervention in support of the third amendment that the Leader of the Opposition was trying to introduce into the Chief Minister's motion and that is the one trying to rope in the third element of the Hon and Gallant Mr Britto's motion that is decrying the necessity to introduce this law by subsidiary legislation. It really has been very instructional to listen to the Chief Minister's exposition of the history and the background giving rise to this measure. This is the first time that the House has actually considered, debated and aired these issues since the 1st July law was passed. Everything that has happened this evening only confirms the importance of the very factor which Col Britto's motion is trying to introduce. That is the fact that a lot of the heat, a lot of the dissension, a lot of that confrontation, could be taken out of local politicals if this Government adopted the policy of bringing forward its legislation to this House and explaining the reasons behind it. The fact is that on 1st July, a law was introduced and the Gibraltarian population for the first time realised that it had British workers demonstrating up Main Street. That all of a sudden British workers were not allowed to come and work in Gibraltar and that Britain was supposed to be our friend and they simply did not understand it, in the way that the Opposition did not understand it. If the Chief Minister had convened a meeting of this House, an emergency meeting if necessary, to introduce what fundamentally was quite a serious piece of legislation which, whatever he says, has had an effect on the relation between this community and Britain. It could very well be that he could have walked out of this House with the support of the entire House. One simply does not know. One is confronted with a law that is sprung surreptitiously through a legal notice and suddenly

everyone in the community is up in arms. We are having people making submissions to us and we simply do not understand some of the issues that he has aired and for that reason, Mr Speaker, I do urge the Government to consider the terms of that third part of Col Britto's motion. I think it is most unlikely that he will but would the Government please recognise that sometimes that confrontation that arises in local politics is unfortunately an unnecessary symptom of what we consider Government's often unnecessary resort to secrecy or to cutting corners. Especially in relation to this issue, a great deal of the heat might have been taken out if they simply adopted the policy of bringing these measures to the House of Assembly and explaining, not only to the House, but to the whole of the community why these measures were necessary in their view. That is the point.

HON CHIEF MINISTER:

I have accepted the amendment to paragraph 7. of the motion by adding, after the words "of 1st July" and after removing the full stop "and takes note of the Opposition's concerns about the effects of the measures in other matters of importance to Gibraltar". That obviously covers all the other matters which concerns them in this measure. That is the wording that we have accepted in recognising that they have made some valid points which clearly we have taken note of.

HON P R CARUANA:

The Opposition will vote in favour of the motion in those terms.

HON CHIEF MINISTER:

The position is now quite clear. I do not feel I need put any new arguments.

Question put in the terms of the amendment, as amended, moved by the Hon the Chief Minister. Agreed to unanimously.

MR SPEAKER:

We now go back to the original motion. If no hon Member wishes to speak I will call on the mover to reply.

HON LT COL E M BRITTO:

Mr Speaker, conscious of the lateness of the hour I shall not reply in detail to the twenty four pages of notes I made on the Chief Minister's contribution, but shall wind

up as quickly as I can. There were one or two minor points of difference but I think the Hansard will show that the points were made about the cases that I reported were not quite as interpreted by the Chief Minister. I will not bother to clarify. I certainly was not intending to defend the cases of the expatriates as such, specially those who may live outside Gibraltar, but the presentation was intended as one of the defence of Gibraltar's interests in the broad sense in relations with Great Britain. I certainly was not suggesting that the Government should accept responsibility for repatriation of needy cases but merely illustrating that as a consequence of the law such cases were arising and I certainly was not suggesting that the Government should accept what amounts to colonial dictates from London but simply illustrating, again, the results of such actions as the 1st July law as having a deteriorating effect on relations with Great Britain. I will simply conclude by saying that I am glad to see that we have been able to vote unanimously on the motion that is, at the end, constructive and hope that it will help Gibraltar's case and the Government's case in dealing with Great Britain but at the same time regretting that we have not been able to include, as presumably the Government intend to vote against my original motion, an element of regret that the Government can support that it has been necessary, due to circumstances which the Chief Minister has gone into, to introduce laws that in fact discriminate. The point made by my hon Colleague certainly, I would stress once again the fact that if such legislation in the future were brought to the House and information given, in many cases the Government would be surprised to find how easy it would be for the Opposition to support measures that in some cases we do not support in view of the lack of sufficient information.

Question put in the terms of the original motion. The following hon Members voted in favour:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P Cumming
The Hon F Vasquez

The following hon Members voted against:

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

The Hon J E Pilcher
The Hon J Blackburn Gittings
The Hon B Traynor

The Hon Miss M I Montegriffo, the Hon L H Francis and the Hon M Ramagge were absent from the Chamber.

The original motion was accordingly defeated.

HON CHIEF MINISTER:

Before I move the adjournment to the House, since we are now in December and the festivities are round the corner, and we have managed to finish on a note where we are all supporting the same thrust to get the UK Government to act on this, I can make use of the occasion to wish Members of the Opposition, yourself, the Clerk and the rest of the staff the season's greetings.

HON P R CARUANA:

If the Chief Minister will give way, those seasonal greetings are, of course, reciprocated. It is to be regretted, of course, that the Chief Minister has managed to contrive an agenda for the House that has made us late for the first of the season's Christmas festivities.

MR SPEAKER:

I endorse this wonderful spirit of goodwill.

ADJOURNMENT

The hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House sine die was taken at 9.30pm on Friday 3rd December, 1993.