

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

26TH APRIL 1994

**(adj 17th May 1994
28th June 1994)**

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixth Meeting of the First Session of the Seventh House of Assembly held in the House of Assembly Chamber on Tuesday the 26th April, 1994, at 10.30 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Colonel 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 L H Francis
The Hon M Ramagge
The Hon P Cumming

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 28th October, 1993, having been circulated to all hon Members were taken as read, approved and signed by Mr Spekaer.

COMMUNICATIONS FROM THE CHAIR

I must pronounce that I have had a letter from the Leader of the Opposition stating that the Hon Mr Peter Cumming is no longer a member of the GSD and therefore he no longer answers to his whip and is now sitting in this House as an Independent.

DOCUMENTS LAID

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

- (1) The Draft Estimates of Revenue and Expenditure 1994/95.
- (2) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos.23 to 26 of 1992/93).
- (3) Statements of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (Nos.5 and 6 of 1992/93).
- (4) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos.5 to 16 of 1993/94).
- (5) Statement of Improvement and Development Fund Reallocations (No.2 of 1993/94).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.10 pm.

The House resumed at 2.55 pm.

Answers to questions continued.

The House recessed at 5.07 pm.

The House resumed at 5.25 pm.

Answers to questions continued.

The House recessed at 10.10 pm.

WEDNESDAY 27TH APRIL, 1994

The House resumed at 10.15 am.

BILLS

FIRST AND SECOND READINGS

THE BANKING (AMENDMENT) ORDINANCE, 1994.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. I do not think it is necessary for me to make a speech, Mr Speaker. The object of the Bill is explained clearly in the Explanatory Memorandum. I should mention en passant that there is an error in Clause 2 of the Bill which I have referred to in the notes I have given you and which I believe you have circulated to hon Members for discussion at Committee Stage. In the Banking (Amendment) Ordinance and indeed the Insurance (Amendment) Ordinance which follows the object is to make clear that the Financial Services Commissioner is also Commissioner of Banking. 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 CUMMING:

Mr Speaker, I was very intrigued to have a paper here on 15 April marked "Corrigendum to the Agenda of the House of Assembly" about this Bill where it says, "Pages 2 and 3, owing to a typing error the introducer of Bills 1, 2 and 3 is being shown as the Chief Minister and has to be amended to read the Financial and Development Secretary". Mr Speaker, this reminded me of a comedy sketch they used to do on BBC many years back called, "The Men from the Ministry" in which at a high-powered meeting the secretary knocks on the door and comes in and says "Look, this letter, could you just tell me whether it is to go to the Minister of Power or to the Minestrone of Power?"

If this Bill had been put down to be introduced by the Chief Minestrone I would have accepted that this is a typing error. With the greatest of respect to the Clerk and the secretary of this House who have my complete trust and friendship and everything else but a typing error? I think this cannot be covered as a typing error because this was a false assumption made on past practice. That would have been an acceptable thing to say. So why then is it that the Financial and Development Secretary then is presenting this Bill? It seems obviously that this is a gesture; a protest; a pathetic gesture of protest. This Bill, in its Explanatory Memorandum at the back says "The object of this Bill is to give effect to the requirements of the United Kingdom". So without reading any further into the technical aspects of this Bill of which I am not particularly competent to comment in detail, but nonetheless just going on here where it says "giving effect to the requirements of the United Kingdom". So we find ourselves in the invidious position in this House where there is a requirement for the United Kingdom, for us to sit here and assume unanimously pass legislation exactly to the comma and full stop that they have required. How is it then, Mr Speaker, that we find ourselves in this position? This is a position which brings the GSLP to the crossroads of its political history. This is a watershed because the phrase that tells us nothing succeeds like success which has been the history of the GSLP so far, on the alternative, nothing fails like failure and this is the beginning of the end of the GSLP; this Bill represents. Because, when the Hon Mr Bossano has tried to make out that the dazzling array of Ministers and senior figures that he had to negotiate with that were called out to face him, as it were, when he went over to the UK, breathing fire according to the national papers, was not as he was making out to flatter him, to entice him, to persuade him. It was, very firmly, to clip his wings. It was to rap him up in comfort because there were plenty of people to do it. I am not happy to see this happening. None of us are because when Britain turns against the Hon Mr Bossano, it turns against every single Gibraltarian too, and this, Mr Speaker, is why the people are very unhappy with this situation where we find ourselves here unanimously voting for a Bill required in every full stop and every comma by the United Kingdom, when we have our own Parliament here and we want to do our own things. Why is it then that we find ourselves in this position? This meeting of the clipping of wings is the culmination of a process that has been going on now for the six years of the GSLP Government. This is reaping what has been sown. What was it then that the Hon Mr Bossano was so busy sowing? Starting from the rejection of Brussels and I know that we can be here days and days discussing the ins and outs

of it and I am very sympathetic to those who oppose me in supporting the Brussels process because there are aspects of it not to our liking. Of course, 14 years ago in the time of the Lisbon statement, if there was any failure of political leadership it was in not painting the picture black enough so the people could really see and understand what was happening and it was that attempt to slightly whitewash what was happening that gave the Opposition party then the strength to come out saying "Let us go a different way" because there is no doubt at all that as long as 14 years ago Britain was already deciding in which way we should negotiate our permanent and final status which was in negotiations with Spain under the Brussels process. In turning against that inevitably we turn against the whole machinery of Britain, of the state, of the press, of Parliament. This is not an attempt to defend the Brussels process but to put it in the context that.....

MR SPEAKER:

May I just tell the hon Member that we are not discussing Brussels. You should address yourself to the Bill. I have been very, very liberal on the rule of relevancy and you have to refer to the principles and merits of the Bill.

HON P CUMMING:

Mr Speaker, in the Explanatory Memorandum it says that it is to give effect to the requirements of the Government of the United Kingdom and this is why I am trying to analyse why it is that this requirement exists and I leave Brussels. The Chief Minister found himself a dazzling array of British Ministers and senior civil servants all out to rap him up and clip his wings. Why did this happen? I say it is because of the continual opposition to the way Britain sees things and the way Britain wants things to be done and I understand that the British interest and ours do not coincide. That they put their national interest first, as to be expected. But still our interests coincide, by and large, with the British interests because if we separate ourselves entirely from that then we will not get anywhere. In reaping what he has sown what is it that the Hon Mr Bossano has sown other than taking up the fight against the Brussels process. The relationship with the United Kingdom throughout, the relationship with the Governor, not this Governor, but all Governors that we have had since he has come into power; the continual pressure on the Government to fade into obscurity as he took the whole political scene. It is not that Gibraltar is opposed to that because we do not want a colonial Governor.....

MR SPEAKER:

I do not want to clip your wings I assure you but be as eloquent as you want to but please address yourself to the Bill.

HON P CUMMING:

The Bill, Mr Speaker, is required of us by the United Kingdom. The continual threat of a constitutional crisis in Gibraltar like, for example, saying to the Governor "You want to be in charge....."

MR SPEAKER:

Again, this has nothing to do with the constitutional crisis. If you carry on like that I shall have to stop you. You have got to address yourself to the Bill.

HON P CUMMING:

I thought I was addressing myself to the Bill, Mr Speaker.

MR SPEAKER:

You are not. You have got to take my ruling for what I say. I am the judge of that.

HON P CUMMING:

Can I analyse, Mr Speaker.....

MR SPEAKER:

You can analyse the Bill by all means.

HON P CUMMING:

..... why the British Government required this Bill of us?

MR SPEAKER:

If you go direct to the Bill, yes, to the financial question by all means but not to constitutional issues.

HON P CUMMING:

Mr Speaker, can I at least repeat my contention that the Hon Mr Bossano is reaping what he has sown, without going into what he has sown, because everybody knows that what he has shown is conflict with the British Government.....

MR SPEAKER:

I shall be as liberal as I can but please address yourself to the Bill.

HON P CUMMING:

..... this is what the man in the street cares about. The man in the street does not care who appoints the Financial Services Commissioner. They do not care at all, in fact, if the man in the street has £1,000 to invest.....

MR SPEAKER:

I must stop you. But the British Government obviously does and this is what you have got to address yourself to: to the substance of the Bill, otherwise I shall have to stop you.

HON P CUMMING:

But Mr Speaker, I am representing here the man in the street and what the man in the street would like to say about this Bill.

MR SPEAKER:

You explain to the man the street the complications of the Bill with regard to the Chancellor etc etc but please do not go into far-reaching constitutional issues which really have nothing to do with this Bill. If you carry on I shall have to stop you.

HON P CUMMING:

Mr Speaker, the effect of this Bill to the man in the street is that the Financial Services Commissioner will now be appointed from UK instead of locally. It is my opinion that the man in the street does not care about that but about the relationship with UK. Mr Speaker, you have taken out of my speech the main aspects which I wanted to get across in this speech but in any case to sum them up in one moment, this is a requirement. We see ourselves in an unprecedented position in this House of having to accept a Bill imposed on us from the United Kingdom. The reason for this is that the Hon Mr Bossano is reaping what he has sown as bad relationship with the United Kingdom and then the question arises - was this decided in Donana or not? If it was not in Donana it is where they met three months before. Well, of course, if we do not want to be close to these Foreign Ministers when they speak about our future, obviously they are

going to discuss all this kinds of things and we are going to end up with more and more shocks and more and more surprises. This is a shock, really which although it brings great humiliation to the Hon Mr Bossano it does not, as far as I can see, greatly affect the man in the street except that the price of regulation of financial services is going to go up. Hopefully this will not redound to the economic well being of the man in the street but there is no doubt that the worsening relationship with the United Kingdom, is now at the lowest possible ebb, thanks to the position that we are in at the moment and which results in the U-turn on the part of the Government as regards aid from UK. In this very House I have been pressing for an official request for aid to the UK when the Hon Mr Bossano has said "We want to be self-sufficient, we want to do our own thing, we do not want to be dependent on them". Now suddenly in the great U-turn it turns out that we are the financial responsibility of the United Kingdom and they must come to our aid and so the Joint Economic Forum is put on us which is a total reverse of the economic hopes of the GSLP and the total humiliation for them to have to defend. They talk about not being salesmen, not coming to the House as salesmen and they are being the salesmen of this Joint Economic Forum which is the ruin of the economic policy of the GSLP and this is why I put forward to Gibraltar that we must review every aspect of our relationship with the UK and with Spain; even the airport.

MR SPEAKER:

If you want to do that move a motion and then you can speak about that till kingdom come but you cannot introduce that matter in regard with this Bill.

HON P CARUANA:

Mr Speaker, this Bill raises matters which are entirely consequential to the matters of principles raised by the Financial Services Commission Ordinance of 1989 amendment thereto and I therefore propose to reserve my comments on the principles until we discuss that Bill.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I cannot resist the temptation to reply to the Hon Mr Cumming and simply express my thanks to the Leader of the Opposition for his contribution.

Question put. Agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

HON P CARUANA:

Yes, Mr Speaker, but whether I would give the same consent with relation to the Financial Services Commission Bill depends on how that debate goes.

THE INSURANCE COMPANIES (AMENDMENT) ORDINANCE, 1994

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to amend the Insurance Companies Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. I do not propose to say anything more, Mr Speaker, than I have already said in connection with the Banking Ordinance amendment. The purpose is entirely the same, i.e. to amend the Insurance Companies Ordinance so that it is quite clear that the Insurance Commissioner is the Financial Services Commissioner. Once again I commend the Bill to the House.

MR SPEAKER:

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

HON P CARUANA:

Yes, Mr Speaker, but before I do could I thank the Financial and Development Secretary for his most helpful explanation on the principles of this Bill. As in the case of the Banking Bill it legislates matters which are entirely consequential to the Financial Services Commission (Amendment) Bill and I therefore reserve my comments on the principles until we discuss that Bill.

HON P CUMMING:

I assume that Mr Speaker is not going to allow me to expand on my views on the constitutional reasons why.....

MR SPEAKER:

As I said, you can certainly move a motion and then you have a much wider scope to discuss the points which you want to.

HON CHIEF MINISTER:

Mr Speaker, let me just say that on the analysis of the Hon Mr Cumming in relation to the Banking and the Insurance Bills, that we have before us, he probably was thinking of the amendment to the Financial Services Commission Ordinance which has not yet been read a first time, because there is nothing in either of these Ordinances that has anything to do with the UK appointing anybody or with the Constitution or with anything else. The Explanatory Memorandum is simply to assist the hon Member to understand what is the reason for the Bill being here but what the Bill does is not to say "The Foreign Secretary shall appoint the Banking Supervisor or the Insurance Supervisor." What it says is that the Financial Services Commissioner will be responsible for appointing these people. This is something we did not ask for. The hon Member does not seem to take sufficient interest in these matters, to read things or listen to things that are said publicly in order to be able to make an intelligent contribution to the debate in this House, otherwise he would know that I have already explained publicly in respect of these two. The letter was published and all he had to do was to get a copy. The Chancellor said that he would expect these two appointments to be carried out after full consultation with me. This is not removing any influence of the Government of Gibraltar. It is giving influence gratuitously and unasked for. All the remarks that the hon Member has made, in fact, are totally irrelevant in the case of these two. They may be relevant to the Bill that we have not yet discussed. He is entitled to make them in the Bill and he will get an answer on that, but, for the sake of putting the record straight, let me say that these two particular amendments to the Insurance Companies Ordinance and to the Banking Ordinance provide for the new Commissioner, when appointed, to be able to appoint these two other officials. These two other officials do not have to be approved by the Foreign Secretary and the position of the British Government is that the Commissioner is expected, if it is decided to appoint these two people, to do it after full consultation with me and it is not because I have asked

for it. I suppose they felt that they needed to make some gestures and that is fine because we have not attempted at any point in time to interfere with the independence of the Commission. We do not think it is right and it was never done since 1989 and it is not our intention to do it and our position has always been that if anybody needs to be consulted it is the people who work in the industry who need to be consulted who know more about the business than I do. So, at the end of the day, if they ask me, the only thing I can do is ask people in the industry whether they think it is a good idea or a bad idea because it is their business, it is their livelihood and I am assuming that they will give me advice which is good for them and if it is good for them it is good for the economy and I have always operated on that principle. I am just saying this so that when we are talking about the principles of these two particular Bills, let us be clear, that the change that we are voting on here is the change where instead of the Banking Supervisor at the moment being either an appointment by the Governor or a de facto addition to the duties..... At one stage before we had the Financial Service Commission in 1989, the Financial Secretary was also the Banking Supervisor; ex officio. We have got a situation where that is what is being altered. What is being altered is that there is a proviso for a specific appointment but the appointment is not one that requires clearance with London. I personally was rather surprised because I would have thought if the hullabaloo is about banking licences it would have been even more important to be involved in approving the Banking Supervisor than the Commissioner but that is the way they wanted to play it and in this particular instance, I cannot even say I am against it because they are actually devolving more influence to us than we have had in the past or that we have asked for.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I do not wish to reply to the motion, Mr Speaker.

Question put. Agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

THE FINANCIAL SERVICES COMMISSION (AMENDMENT) ORDINANCE 1994

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Financial Services Commission 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. I do not propose to say more than a few introductory remarks, Mr Speaker, which I think is all that is required from me and then no doubt there will be a debate on the politics of the matter. Again, as with the previous two Bills which have been put to the House this morning, the object of this particular Bill is explained in the explanatory memorandum and there has been, I think, sufficient publicity given to the issues for me not to need to elaborate on the background 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 P CUMMING:

Once again in the explanatory memorandum of this Bill it says that the object is to comply with the requirements of the United Kingdom. I am only going to say a few words here. I am not going to give a long speech on the matter. The Chief Minister is making out that I do not understand the issues and that I have not bothered to try and learn them and of course he is free to say what he likes. But he is totally wrong, I have here in the local press the full text of the correspondence between the Chief Minister and the Chancellor back and forth. I have studied the matter. I do not think that technically I am competent to comment in any useful way. But the political reality underlying it remains that this House is being required to comply. Bringing this out in this public way has resulted in bringing the relationship

between Britain and Gibraltar to its lowest ebb ever and the responsibility of that lies directly in the hands of the Chief Minister who is now reaping what he has sown. The man in the street, I repeat, does not care who appoints the Financial Services Commissioner but does care about a good relationship with the United Kingdom. I would finally add that if the man in the street has £1,000 to invest he prefers to invest it with Douglas Hurd and not with Joe Bossano.

HON P R CARUANA:

I am in the happy position, Mr Speaker, of not having at this moment in time a spare £1,000 so that particular predicament does not arise in my case.

Mr Speaker, before getting into the principles of the nitty gritty of the Bill, there are some points that I would like to make. Indeed, I have made them publicly already outside this House. In relation to the initial unfortunate aspect of this matter that arises and that is that whether he likes it or not, the position in which we all now collectively find ourselves unquestionably reflects a failure of the Government in general and the Chief Minister's, in particular, bilateral diplomacy with the United Kingdom to the extent that there is a matter of both financial services importance and also of a degree of constitutional importance that he has been unable to secure for Gibraltar. The position that Gibraltar would have wanted him to secure represents a failure on his part to deliver success from his bilateral relations with the United Kingdom. And I also think, Mr Speaker, that rightly or wrongly - I do not think it is necessary at this point, to discuss whether it is rightly or wrongly - the United Kingdom's position must reflect a certain lack of confidence in our administration here in Gibraltar to look after things for which they are then responsible in the international community. In other words, it appears to be the British Government's position that they are unwilling to answer abroad for things which our Government here regulates as Her Majesty's Government in one of Her Majesty's Dependent Territories. It is not necessary to discuss which is the cause and which is the effect but it follows, does it not, as a matter of simple logic, that if they did have confidence in the local administration to do that to their satisfaction then presumably they would have been relaxed to have let it to the local administration and that has not been their position?

The second point that arises is that I think that there is a lesson to be learnt, and I say this not just to try and establish political responsibilities but also in the hope that in the future things may be done differently. To a very great extent the position in which we find ourselves also reflects the Chief Minister's secretive and one-man approach to these issues. Mr Speaker will be personally and acutely aware of the measure of success that Gibraltar was able to

reap in a similar position to the present when the British Government was planning to prejudice Gibraltar in relation to British Nationality when the British Government was indulged in designing the British Nationality Act. Had the Chief Minister of the day played those cards as close to his chest about British Nationality as the present Chief Minister has played these cards to his chest, we might never have and never have had British Nationality in Gibraltar today in terms of British citizenship. What has happened is that by playing those cards so close to his chest in relation to the issues of this Bill, the Chief Minister has in effect deprived not only the industry but other parties in Gibraltar from mobilising, as Gibraltar has done in the past, lobby groups, mobilising representative groups in an attempt to avoid the last minute ultimatum which is really all that the Chief Minister was able to bring back to Gibraltar when he came back from his last round of talks. I do not say that had the Chief Minister played it differently; had the Chief Minister opened out this issue that the result would necessarily have been different. What I do say to him is that by playing the cards so close to his chest; by in effect opening this to public participation and public lobbying only when we had two weeks to take it or leave it, he has at the very least deprived Gibraltar of the possibility that wider lobbying and wider representations from a wider grouping of people would have had an influence perhaps through parliamentary representations in the United Kingdom as Gibraltar was able to mobilise, for example, on the British Nationality Act issue. Because, let us not delude ourselves Mr Speaker, the situation in which we find ourselves and the principles described by this particular Bill is, in effect, that as far as regulation of the finance centre is concerned, it is de facto controlled by the United Kingdom Government in the sense that they hire and fire the people whose job it is to carry out that process of regulation. We have not even been able to rescue the principle of joint control. Those of us in Gibraltar who, I think are most of us who, believe that we are fit, able and capable of controlling the regulation of the finance centre ourselves exclusively are doubly offended by the notion that we do not even share the control with the United Kingdom on a - to coin a now much used phrase local - 50-50 basis. Mr Speaker, of course we all understand what the United Kingdom's position is. They say that as they are responsible to the European Community Commission, and they are partners in the European Community, for infraction proceedings and other possible liabilities that might arise, within a European Community context, from the conduct of financial services from Gibraltar and the regulation thereof. As they are responsible to answer for it, they consider that they must be in a position to regulate it. It is, as I think the Chief Minister has also recognised publicly in the past, not any logical position for them to take from the perspective of their own interests but I do not think we can delude ourselves in Gibraltar into any view other than from the point of view of our collective aspiration to evolve towards a position

of maximum self-government and maximum responsibility for our own executive administration, that the position in which we now find ourselves, if we adopt this Bill, represents a step backwards. The question now as we debate the principles of this Bill, Mr Speaker, is not really whether we think that the principles of this Bill are right or wrong because I suspect that we would come to a different conclusion if that is what we were debating here. In practice the choice between us now is whether we take it or leave it - to quote the Chief Minister's words. We could, of course, leave it on a matter of principle. We could say, "The principles enshrined in this Bill are not acceptable to the legislature of Gibraltar and therefore we vote against it and we leave it" but that would be cutting our noses to spite our faces because the consequence of that decision is really that we must then abandon the notion of the finance centre within the European Union and access to the Single Market. So the question is not whether we think the principles of this Bill are right or wrong; the question is whether we choose the devil or the deep blue sea; the devil being exclusion from the European Community Single Market for financial services; the deep blue sea being taking a step back in our own autonomous self-government here in Gibraltar. That is the choice and not whether the principles of this Bill are right or wrong because there can be no doubt that the principles of this Bill, from our point of view as the Parliament of Gibraltar, are wrong.

I therefore continue now, Mr Speaker, from the starting point that what we are doing here is making the best of what is already a bad job. Moving specifically to the principles that arise from a reading of this Bill, the first and most important principle that arises and it is the most important principle that arises because it is capable of being applied to other bills in the future and that is the issue which I know has been "covered" - I am not sure that it has been covered in any sense that is entirely satisfactory - but it has been covered in the exchange of correspondence between the Chief Minister and the Chancellor of the Exchequer and it is this question of precedence. In other words, does this take it or leave it approach from the United Kingdom create a precedent for other areas in which local legislation might be necessary in relation to Gibraltar availing itself of facilities and possibilities offered to Gibraltar by our membership of the European Union? The Chancellor of the Exchequer, in what I can only describe as couched diplomatic language on which the Chief Minister, I know, has sought to put a helpful interpretation, has said in terms that this is not a precedent but it remains to be seen whether it is a precedent or not. Certainly there is the danger that, on a case by case basis and because no case by itself is important enough to dig one's heels in on the grounds of principle, there will be a gradual erosion of this concept. That is a precedent which, given a free hand and a level legislative playing field, this Parliament, I have no doubt, should resist at every opportunity for the constitutional

issues that it raises. The second point of principle that arises is this. To the extent that this House chooses between the devil and the deep blue sea and decides to go for economic expediency rather than for constitutional principle, can we be sure that it will even have the effect of economic expediency? In other words, can we be sure that once we have taken this dose of castor oil administered to us by the British Government, that the medication will have the intended effect so that we will now be able, at the price of having sacrificed a degree of our legislative and administrative independence, to enjoy the benefits in relation to the finance centre that accrue to Gibraltar by virtue of our membership of the European Community? I know that the Chief Minister has expressed the view that he is sceptical on that issue and it may well be that that scepticism is entirely justified, but the fact that we in Gibraltar are sceptical of it does in no way dilute or diminish the moral responsibility of the British Government, having administered this dose of castor oil and having made us take it, to move heaven and earth and leave no stone unturned, whatever might be the consequences thereof for its bilateral relations with Spain within the European Community, to now fight Gibraltar's corner in every helpful regard in relation to this issue. And this House will, I suspect and I hope and I would encourage it to, to be vigilant and remain vigilant to ensure that the British Government will discharge that moral obligation.

I move now into the principles that arise specifically in relation to financial services from the provisions of the Bill itself. In making reference to particular clauses I will try and extract from the provision only the principle without discussing the nitty gritty which is best discussed in the Committee Stage. But the principle of clause 3 amending section 3 is that of the seven other members of the Commission, the second sentence then begins, "Of these seven members, four shall have experience of regulation and supervision of finance business, or shall be qualified as a solicitor, barrister, auditor or actuary, in the United Kingdom". And I said to myself, "That is all right because, in principle, all Gibraltar barristers, all Gibraltar chartered accountants - there are no actuaries in Gibraltar to my knowledge - are qualified as solicitor, barrister or auditor in the United Kingdom". So one supposes that members of the Bar of Gibraltar and accountants of local stock in Gibraltar will be eligible to be appointed within that quota of four. But then I read on and I ask, "If that is what that sentence means what does the second sentence mean?" "Three members of the Commission shall have equivalent experience or qualifications in Gibraltar". There are no accountants, solicitors or barristers, as opposed to practice, who are qualified in Gibraltar as opposed to qualified in the United Kingdom. Speaking for example for myself, I am barrister qualified in the United Kingdom. If the first sentence speaks of barristers qualified in the United Kingdom and the second sentence speaks of barristers qualified in Gibraltar, as I am certain that the Foreign and Commonwealth

Office must know that there are no law schools in Gibraltar, I can only assume that the second sentence is intended to refer to me and the first sentence is intended to refer to people who practice in the Temple of Fleet Street in the United Kingdom. Therefore I say to myself, "I am wrong in believing that His Excellency the Governor, with or without consultation with the Foreign and Commonwealth Office, is going to include any Gibraltar barristers in the quota of four". Therefore in considering the principles of this clause we have got to understand that when it says, "qualified in the United Kingdom", I do not think it means qualified. I think it means practising in the United Kingdom. And if that is what it means that is what it should say and either we should make this Bill say what it intends or we should amend it to say "qualified in the United Kingdom wherever they may be practising". Whether they are practising in the United Kingdom or not, let us not fall into the Airport Agreement trap or the ferry trap of finding ourselves with an interpretation which we cannot rectify. Because frankly, I think little could be more offensive here in Gibraltar than to find our financial services industry regulated by half a dozen solicitors and barristers practising in the United Kingdom. Perhaps I ought to have declared an interest when I made that point but I think it is self-evident that I have one in a professional capacity.

Mr Speaker, the second important point of principle arises - and I will deal with it only once although it arises both in clauses 5 and 6 of the Bill but I will deal with it only once because the point is the same in both instances. Yesterday whilst we were debating some other issue during Question Time, the Chief Minister pointed out that at least this Bill does not give the Financial Services Commissioner the power, in effect, to write subsidiary legislation, that they wanted the power for the Financial Services Commissioner to implement United Kingdom regulations and rules by regulation in Gibraltar by which I understood to mean that the original proposal had been that rather like the Government now writes subsidiary legislation, that the Financial Services Commissioner would. That is how I understood it and that the Chief Minister said, "At least this is better because all he is entitled to do is to apply, establish, implement standards rather than laws". I will give way if the Chief Minister wants to clarify that point.

HON CHIEF MINISTER:

No, Mr Speaker, he has understood it wrong. The original wording said he had to act in accordance with the UK legislation, not that he would have the power to give effect to the legislation of the United Kingdom by making regulations in Gibraltar. If we have somebody to whom by our law we say, "You have to act in accordance with the law of the UK", we have automatically, the moment we pass that in this House, incorporated in our law, as a requirement of the job, whatever

law is passed in future in the United Kingdom. That is what I objected to because I said, "What you are asking me is to go to the House with a Bill which effectively says, to the House that the moment we pass this Bill we have ceased to have any say in the regulation of financial services in Gibraltar" because then we are giving somebody a job and his job, according to the laws of Gibraltar, is to implement the laws of the United Kingdom. "That is" I said, "a complete nonsense" and I think that I eventually convinced them. I said, "Because the man is going to become a schizophrenic. Suppose we have a law in Gibraltar which says one thing and you have a law in the United Kingdom which says a different thing. If the man requires people to be regulated according to the law of Gibraltar he is not complying with his job description and if he requires them to comply with the law of the United Kingdom, the customer is not complying with the law of Gibraltar. So what you are asking me to do is a nonsense". Eventually the technicians that drafted this law accepted the argument and then changed that he would have to ensure that people in Gibraltar were complying with the laws of the UK, to ensuring that the standards in Gibraltar matched those of the UK and matching them means that we can legislate here comparable standards.

HON P R CARUANA:

Well, Mr Speaker, of course I have not studied the original text but that had been my understanding erroneously of what the Chief Minister, I thought, was explaining yesterday. Whilst I applaud the initiative of the technicians to try and save that point, my point was going to be and remains that, unfortunately, I do not think they have succeeded in saving that point because clauses 5 and 6 of this Bill, amending sections 6 and 8 of the principal Ordinance, give the Financial Services Commissioner the power to "establish and implement standards which match those required by legislation and supervisory practice governing the provision of financial services within the United Kingdom". This is in clause 5(b)(ii)(b)(ii). In clause 6(c): "where these obligations apply, establish and implement standards which match those required by legislation and supervisory practice governing the provision of financial services within the United Kingdom". The effect is the same as the technician was trying to save. What will now happen is that the Financial Services Commissioner will sit in his office, presumably in Europort, and will ask, "What standards are required by the Financial Services Act of the United Kingdom? Whatever those standards are, I must enforce in Gibraltar". So in effect he will be sitting in Europort enforcing English standards and he will not require local legislation. All that he will require to do is to ask himself "What standards does my counterpart in the United Kingdom have to establish and implement and enforce and I must implement, establish and enforce the same standards?" So whilst I applaud the attempt made to save that point, I do not think it has been

effectively saved because what will happen is that the Financial Services Commissioner will still consider that his bible is not the laws of Gibraltar; his bible is the laws of the United Kingdom because what he must do is to establish and implement standards which match those required by UK legislation. So in practice, unfortunately, and I am not saying that it could have been achieved but certainly as a point of principle, that principle has not been saved and we remain in the situation where UK legislation and UK standards - incidentally many of which are not necessarily so high that we would not welcome them - are in effect imported through the side door by that phrase "implement and establish matching standards". So I think, and I hope that I am wrong but limiting myself to the principle, that the effect of those words is as if the application of English Law Ordinance included in the schedule, the United Kingdom Financial Services Act. Mr Speaker, I think that particular clause, especially as it appears paragraph (c), in clause 6 amending section 8, has other possible dangers and that is that it could be used to require us to implement, for example, the Companies Directives because will the Financial Services Commissioner seek to argue that application of the Companies Directive is an obligation which applies to the United Kingdom in relation to the provision of financial services. At the moment - and this will not involve an amendment to this Ordinance but an amendment to the Financial Services Ordinance itself, as opposed to the Financial Services Commission Ordinance - financial services include many activities which are much more connected with company formation and company management than with the provision of financial services. So is he going to argue that in order to comply with Community obligations he has got to require from Gibraltar incorporated companies, compliance with all the provisions of all the Directives that there have been in the European Community relating to companies? That is a possible hidden danger. It is not clear from this Ordinance, certainly I would not have thought it was the intention but it may well be the result if not the intention. And I think that the extent and manner in which we legislate especially the Companies Directives is very important to Gibraltar because if we blow the company product then we will certainly blow the whole finance centre because it is the company product that is the central core of the finance centre. So the manner in which we eventually have to legislate the Companies Directives is a matter that we should jealously reserve to this House. Mr Speaker, then I am most concerned by the provisions of clause 11 introducing a new section 23 under the heading of "Confidentiality". I think this raises very serious issues of principle because in effect what it provides is that the absolute duty of confidentiality required on members of the Commission and its staff (created in section 23(1), clause 11 of the Bill) does not apply in all the circumstances listed in subsection (2). Well at paragraph (b) the second of that list of circumstances in which the duty of confidentiality does not apply, is in the interest

of the prevention or detection of crime but the prevention and detection of crime where, in Gibraltar or elsewhere? Every finance centre involves the provision of services which, depending upon on how it is done, may or may not involve a breach of the tax laws in another country. Well, it is a common principle of international law that no country will assist another country in the enforcement of its tax laws but breaching one's tax laws in one's country is a crime. If I breach the Income Tax Ordinance here in Gibraltar, I am committing a crime. Does it mean and is it intended to mean that the Financial Services Commissioner of Gibraltar can pass to the tax man in other jurisdictions, information that he may have, pursuant to its regulated capacity, that enables the prosecuting authorities of that other country to bring cases of tax crimes against the users. If that is the case, then I think we ought to bother to legislate this. I cannot understand why it has become much more sensitive now because of the regulations of the finance centres is to a certain extent being exported in the sense that this Bill requires. It does not even require a court order. Why should the Financial Services Commissioner be in a privileged position? Why should the Financial Services Commissioner be any more liable to disclose information without a court order than the Attorney General or the Commissioner of Police? No one says, in relation to the fight against drugs, all laws of confidentiality go out of the window. What the law says is that, in relation to the fight against drugs, courts are more likely to give disclosure orders. And so they should but for some reason the Financial Services Commissioner is now thought to be placed in a position even more privileged than those that fight against drugs and other things. And I think that that, as a matter of principle, is entirely wrong. The whole of this list should firstly be subject to the provisions of paragraph (e) that there must be a court order. It cannot be left to the criteria of the Financial Services Commissioner as to the circumstances in which it is right to disclose information that he has acquired for one purpose and disclose it in breach of competence for a quite different purpose. That is not the function of the Financial Services Commissioner. The Financial Services Commissioner's function is to collect the evidence for the purposes of regulation. The other purposes to which that information can be put, once he has collated it, is not a matter for the Financial Services Commissioner but are matters for the Attorney General or for the Courts of Gibraltar to decide. When I have said in my address to the principles of the banking and insurance Bills, that I was not signalling an intention to consent to the Committee Stage of this Bill necessarily being heard today, it was in the hope, not because I have any interest in delaying this for twenty four hours, that if having heard some of the points that I am making, hon Members may consider it appropriate and necessary to adjourn these

proceedings. That is why I said that I was not necessarily going to signify my consent to the Committee Stage being heard today. In the hope that some of these points may be sufficiently attractive and appealing to the Government for them to consider that it is worth delaying a week or two or three or even a month more. We have waited two years, we can one more month. The fact that Mr Clark has expressed the hope that we will ro-ro this by the end of April, frankly, has no impact on me. Having waited two years, I can well afford to come back in June or whenever it is we come back, to finish this meeting. And if hon Members believe that there is a some merit in some of my arguments, I think we ought to detain ourselves and go back to the United Kingdom to obtain at least clarificatory amendments to this Bill to make sure that it does not mean what we fear it might mean but does not say clearly. Paragraph (c) for example; confidentiality goes out of the window "in connection with the discharge of any international obligation to which Gibraltar is subject." As the Government know the modern model of double taxation treaties is that it contains exchange of information provisions. The most famous one now is the one between the United States and Switzerland which has had a dramatic effect in blowing the myth of Swiss confidentiality. Well, does paragraph (c) mean that if Britain sees fit to extend double taxation treaties to Gibraltar that the Financial Services Commissioner is bound to sing like a canary in respect of matters that he has in relation to regulation? Because if it does and that happens, forget the finance centre; it is finished overnight. And I think it is adding insult to injury for someone to say that the Financial Services Commissioner "shall comply with the directions of the Supreme Court." Well, I should jolly well hope so or does someone think that there might be circumstances in which he was free to disregard the order of the Supreme Court? And to include that as an item of the list in which confidentiality goes out of the window seems to me to be absurd. Who could possibly believe that there are any circumstances in which the Financial Services Commissioner could cock a snook at the Supreme Court and say I am not bound by your order, I am not complied with? Mr Speaker, I have dealt in passing although out of the context in which I wanted to deal with, but I will not repeat myself, at the importance of making sure that this Bill does not have the effect of enabling the Financial Services Commissioner to, indirectly, apply to Gibraltar Company Directives which we have not legislated. Then there is another point of principle that arises. And that is in relation to the whole cost of regulating and the whole cost of this law. As hon Members know, the United Kingdom has required that the cost of administering and implementing and working this must fall on the financial services industry.

They are not willing to contribute anything to it. But I think, Mr Speaker, that as a matter of principle the question of cost must be divided into two categories. One category is the cost of regulating the Gibraltar financial services industry which I think they can fairly argue, fairly argue ought to be paid for in Gibraltar; after all it is paid for in the United Kingdom. FIMBRA, which is a self regulatory body of one aspect of the United Kingdoms financial services industry is paid for by them. So I think it is arguable for them that they can fairly say, "No, you must pay for the cost of regulating your own financial services industry." That is no more than they say to the financial services industry in the United Kingdom. But what I think is unfair is the second category to which I think the other question of costs falls, and that is having said to us "This is the mechanism that you must establish to regulate your finance centre. I control it and you must pay for it. On top of all that I reserve the right to send out auditors to audit what I have required you to do and you must pay for that as well." That is not fair or justifiable, because that is not paying for the costs of regulating our finance centre; that is paying for their capricious desire to double check what is already of their making in the first place. Whereas they can fairly argue on principle that we should be required to pay the costs of our own regulation, I do not think that they can fairly argue on principle that they should make us pay the costs of auditing that regulation in terms contained in clause 8 adding a new section 14. Another question arises on principle in relation to costs. Mr Speaker, in the United Kingdom different sectors of the financial services industry have got different regulatory bodies. The bankers, the accountants, the company managers, the trust managers, the insurance industry; they are all separately regulated by separate regulatory bodies. Each such regulatory body pays its own costs. In Gibraltar, we have one regulatory body. Is it the intention, and perhaps the Chief Minister can give us an indication of his view on this when he replies, is it the intention because in Gibraltar we have only one regulatory body, to make the whole of the financial services industry pay for the collective costs of the regulation? In other words, will the insurance broker have to pay for the costs of regulating the banks and will the company managers have to pay for the costs of regulating the insurance company because let us not forget that the whole *raison d'etre* of this Bill is basically related to fund management, banking and insurance? That is how the Single Market issue arises in the first place. Is it therefore fair, as a matter of principle, to ask the company manager, who has not regulated European Community activity, to contribute to the cost of regulating a bank who simply ought to export on passport to other members of the European Community. That problem, of course, does not arise in the

United Kingdom because, as I said before, different sectors of the financial services industry have different regulatory bodies and they all finance themselves. Here, we have this additional problem because we only have the one. So are we saying to the insurance broker on the corner, "You have to contribute to the cost of regulating a large fund manager that comes and sets up in Gibraltar for the purposes of marketing across Europe his unit trusts, or a bank"? That must be no. I think that there has got to be umbrellas. There has got to be segmentation of the cost of regulation and that cost must be fairly apportioned on that sector of the industry that is being regulated or that the regulation of which has incurred these costs. As a matter of principle, Mr Speaker, I would say, given that the regime in this field in effect amounts to an exportation of the system of regulation, I would not even dare to suggest what might have been nonsensical on the debate of the original Financial Services Bill. I am not sure that its nonsensical any more. Perhaps we ought to insist on including a clause in here that at least requires the meetings of the Financial Services Commission to be held in Gibraltar. Something that we all take for granted under the old regime. But if we have got seven people, five or six of which work in the City of London, the next thing that we might find is that meetings of the Gibraltar Financial Services Commission take place in London. It is made no longer beyond the realms of possibility. I would rather pay for the costs of the air fares, which I prefer not to have to pay at all, and have a physical nexus between this Commission and this territory than risk becoming the laughing stock of the international financial services community by being suggested in magazines that waste no time in cocking a snook at us, by saying the Gibraltar Financial Services Commission meets in London. Well, I think we ought to perhaps consider. I cannot see how they can object to a requirement that the meetings of the Commission should take place in Gibraltar. The other point that we should not lose sight and it is my concluding point on my list is that of course the amendments do not change the original Ordinance but the effect of it is now much more consequential given that there is now much less local influence, so as not to overstate the word, on the appointment of the Financial Services Commissioner. That is that the powers of the Ordinance are not actually vested in the Commission but in the Commissioner. The person that can do all these things about which I complain, is not the Commission so that we can say "Well, no perhaps the Leader of the Opposition is being paranoid what are the chances of seven people or eight people agreeing to do all this dreadful things." The answer is that it does not require eight people to do them. It only requires one because the powers of the Ordinance are in effect vested in the Commissioner and not in the Commission. And therefore Mr Speaker, I cannot be certain that I have identified all the issues of principle that arise

from this Bill but having identified as many of them as I have been able to in the time that I have had available to me since this Bill has been made available to me, I think that in voting for any final Bill, it has to be made clear that we are voting in favour, if we vote in favour, under protest with deep reservations and only on the basis that we are choosing between the devil and the deep blue sea and not on any fair choice as to whether we really want to implement this legislation in Gibraltar. And let no one say that those of us that eventually decide to vote for this legislation in any sense supported, in a moral sense and in any political sense, the principles that this Bill enshrined which we do not.

HON F VASQUEZ:

Mr Speaker, I have listened to my hon Friend the Leader of the Opposition and naturally I agree and support all the sentiments that he has expressed and the points that he has made. I will just really in addition to that want to highlight my own view of what exactly we are debating in this Bill; that is as follows. Obviously, this is something that has been thrust upon us by the British Government for the reasons that have already been discussed at length. What this House has to decide is whether this in fact - to adopt the metaphor adopted by my hon Friend - is medicine or a pill which is worth swallowing. One thing we cannot overlook is that the Gibraltar finance services industry is still, Mr Speaker, a nascent industry. It is a very young industry and it is an industry which is based almost exclusively on one vehicle and that is the Gibraltar exempt company. We do not have in Gibraltar, yet, an industry relating to international fund management or insurance companies established in Gibraltar or indeed banks yet established in Gibraltar with a view to marketing their services elsewhere or indeed neither have we established a UCITS industry in Gibraltar yet. So clearly this is the Bill that we are taking on board with a view and the expectation and hope that we will acquire that industry. The danger, of course, is that in doing so we may be admitting a trojan horse into our midst. Because we do run the risk that by adopting this Bill we fall between two stools. On the one hand, we lose our autonomy; the autonomy that we have at present in the administration and supervision of the local finance industry. And we may indeed, as the Leader of the Opposition has pointed out, lose the vehicle which so far has been the most important building brick in the industry in Gibraltar ie the exempt company. If the Financial Services Commissioner, under the new regime, decides that Gibraltar must implement Community law on companies, specifically the Fourth Directive, could deal a death blow to the Gibraltar exempt company. So on the one hand we are risking losing the autonomy and losing the most important

product we have in Gibraltar and on the other hand we are running the risk that, despite passing this Bill, we actually failed to achieve what we are trying to, namely the establishment of an industry in Gibraltar capable of selling its services in the Community. We already know the objections at Luxembourg and Spain have placed and we have no guarantee that by adopting this law we are in effect satisfying those reservations that have been expressed, be they for political or commercial reasons. I think we must be aware that that is the danger we are running here and that is why we have to contemplate this Bill with consummate care and that is why we believe we must go back and re-negotiate clarifications. In my view, the most pernicious and the most questionable and dubious element of this Bill are the powers of the Commissioner as set out in the proposed clauses of section 6 and 8 set out in clauses 5 and 6 of this Bill. We see that the Commissioner is empowered "to establish and implement standards which match those required by legislation with the United Kingdom." That is quoting from clause 5 and quoting from clause 6 he is empowered "to apply, establish and implement standards." Those, in my view, are the key words and I will be interesting to know how the Chief Minister interprets that. Obviously, "apply and implement" are well and good. But it is the establishment point; what does it mean when it says that the Commissioner is empowered to establish these standards? Is it that he is going to have the power to sit in his office and pass regulations? That is not clear from the first reading.

HON THE CHIEF MINISTER:

I have already dealt with that specific point. There is no question of any power under this Ordinance or any other Ordinance allowing the Commissioner to introduce regulations which are law. I do not know whether establishing standards mean, for example, that he says that somebody must have a minimum share capital of this if there is nothing in the law. Certainly as far as subsidiary legislation which is the point that was made before, that I can definitely give a categorical answer.

HON F. VASQUEZ:

That point is clear. But the point is still unclear because the Chief Minister himself has conceded. He does not know whether it means that the Commissioner is going to take upon himself the power to insist, for example, the example that he has cited. What does it mean? I think this is exactly the point that this Bill requires clarification on. It certainly says that he is empowered to establish standards and certainly if that means that he is required to refer to the Government of Gibraltar matters that are of concern to him and require the Government or negotiate with the

Government the passage of certain legislation, that is certainly acceptable. But if it means that somehow in any way this man is going to have the power to establish standards which are not law in Gibraltar, then it is unacceptable. And that is the point that needs clarification. I have nothing further to add, Mr Speaker.

HON THE CHIEF MINISTER:

Mr Speaker, I am assuming that no other member of the Opposition wants to make a contribution because I will not be able to deal with anything since I can only speak once. Let me say that I hate to disappoint the hon Mr Cumming in his analysis that there was some sinister reason for the Financial and Development Secretary bringing this legislation to the House rather than, as he says, me bringing it because in fact had he been here in 1989, he would have known that the existing legislation in 1989 was brought by the Financial and Development Secretary. And therefore the only reason for the Financial and Development Secretary to bring is that he brought the original one and he is bringing the amending Bill to the original one. It does not really make any difference who brings it because, as is well known publicly, it is not being drafted by us anyway. And certainly, Mr Speaker, I am not defending this Bill on the basis that this is the policy of the Government of Gibraltar because it is not and I have made that absolutely clear. But I think that there are matters of fact which have to be thrown out into the open if we are going to have people trying to apportion blame for what has happened. I certainly reject entirely the thesis of Mr Cumming, I do not whether that thesis is something he has elaborated since his exodus or prior to his exodus and that it reflects what was the view collectively before he left, which he is now putting perhaps more explicitly than others do. I think it is an interesting theory that the problems that we have faced in recent times over financial services with the United Kingdom is because we are not prepared to play ball with them on the airport, on Brussels and so on and therefore our relationship is at a low ebb because we will not knuckle under. He may be right in which case I am afraid I am going to stay at that ebb for as long as I am here because I have no intention of knuckling under on the fundamentals of Brussels or the airport or anything else that affects our status, our future, our decolonisation or our sovereignty. I have accepted, Mr Speaker, as the Leader of the Opposition has said, that the United Kingdom has got a genuine interest in ensuring that the financial services industry in Gibraltar, which since 1993 in some areas enjoys the right to passport, that that passport, which is effectively a British passport licence, is one which is issued to bona fide people who would be entitled to get the passport if they chose to enter the Single

Market through any other Member State. I do not think that that justifies the legislation. I think this goes well beyond that requirement and therefore my argument since 1992 was, having accepted in 1992 that Gibraltar in 1993 would be treated as a Member State for licencing purposes, that their involvement would be limited to ensuring that they gave us the necessary support. And that is what we said in 1992. So I feel I need to take hon Members back to the history of this so that it is on record here and that it is public knowledge and that if they still want to keep on accusing me they do it because it suit their political ends but not because there is any justification on facts.

Let me say that before 1990 when we had Linda Chalker and Francis Maud, the relationship were not as difficult as they became with Garel Jones. That is the truth. The policy of the Government of Gibraltar was identical. But there was not the same chemistry. I am not sure what the chemistry is going to be like in the present incumbent. We will have to wait and see. Too early to tell. In September 1990, at a meeting with Mr Garel Jones in London, I was told the United Kingdom was prepared to notify the Commission that the competent authority was the Financial Services Commissioner in Gibraltar for banking purposes. At once the First Banking Coordination Directive and Associated Consolidated Supervision Directive were implemented. The Financial Services Commissioner, appointed as a competent authority in the Banking Ordinance and preparations under way to amend legislation for the Second Banking Coordination Directive. This is when we had done very little to implement; when we still had a situation, as I have mentioned, where initially the financial services industry was really a de facto responsibility ex officio of the Financial and Development Secretary. In 1990, the position in London was "You must put better machinery than this for us to be able to tell people in the European Community that you are a competent authority equally standing to everybody else in Europe". We then had a situation when they came back in October of that year and they said, "We are prepared to offer, at our expense, Bank of England experts to go to Gibraltar and to give you advice on how to go about transposing into your banking law the Community requirements". We said that as long as we were clear that they were just giving us advice, then we were grateful. Well, they came, they saw and they advised and we brought the Banking Ordinance to the House, based on the recommendations of the experts from the Bank of England, which the UK said would then enable them to go round telling everybody Gibraltar is a kosher EEC licensing jurisdiction and everybody has got to accept it as such. No indication of distrust, of me, of the industry or of anybody else. No problem! We eventually passed the new Banking Ordinance in this House in May 1992. In March 1992, we recruited Mike Davidson from Barclays Bank because he was about to leave Gibraltar; we consulted people, he is a man that was identified as a committed Gibraltarian, a person who cared about the place and a person who had the necessary background and experience, in our view. I talked

to Sir John Quinton personally and asked him whether he would do us a favour of releasing him to us rather than taking him away. Barclays Bank agreed that they would second him to the Commission on the basis that he would be the understudy of Mr Penman Brown. All this was, obviously, done with everything being copied to London. There were a number of meetings, some at ministerial level in London with Mr Garel Jones, where the UK then started saying, "It is vital that the vacancy should be advertised for the successor". I told the British Government that I did not agree. They said that it was very important for our image that the selection should be seen to be transparent. I did not agree. Therefore, because we could not have an agreement, Mr Penman Brown's contract was extended for four months. This is in August 1992. Whilst this is going on, we discover, by accident because through an oversight they had not told us, that the United Kingdom had introduced regulations in draft form in September, which excluded Gibraltar as a Community jurisdiction. They had introduced their own legislation, not by an Act of Parliament, but by regulation, to give effect to the 2nd Banking Coordination Directive, which we had given effect in Gibraltar on the advice of the Bank of England. In their legislation, they introduced the definition of a Community Credit Institution. That definition said - this is a public document - "A Community Credit Institution is either one authorised by the Bank of England or one authorised by the comparable authority in another Member State". Ours are not authorised by the Bank of England, nor are they authorised by a comparable authority in another Member State, so we are not Community Credit Institutions. So, I go back and I say to the British Government, "Here we are in the middle of discussions on how we have the machinery in Gibraltar to satisfy you, so that you can satisfy others, that we are Community banks, and you suddenly, out of the blue, produce legislation in the United Kingdom which says we are not Community banks; we are in limbo because we are neither UK nor one of the other eleven Member States." The initial reaction was that this was a technical error, but then I asked for a formal reply in writing and then when the formal reply in writing came, the answer was that it was not an error, it was a deliberate decision in September 1992 because they had not yet decided how we were going to be included. I took up the matter with Lord Bethel who wrote to Garel Jones, who received an answer from Garel Jones saying that I was over-reacting, that this was only a draft regulation and that by December 1992, when the final regulation had to be implemented to give effect to Community law by January 1993, Gibraltar would have been included back, because between September and December they would take a decision on how we would be categorised. Let me say, Mr Speaker, something else happened in September 1992. I do not know whether it has a connection or it does not have a connection, but since Opposition Members are looking for reasons for changes, let me say, that there are two Opposition Members that belong to the chambers of Triay and Triay and I do not know whether they are aware or they are not aware

of what their chambers submitted in September 1992, for onward transmission in London, which I was faced with at a meeting with Garel Jones. But, in case they are not aware, I can tell the hon Members and the House that a memorandum was submitted which eventually went to the United Kingdom Government under the label of Finer Centre Institute, whatever that may be, which Garel Jones told me was the view of the industry. I told him it was the view of the father-in-law of the Leader of the Opposition. There is a particular paragraph which runs coach and horses through everything that has been said in this House about how we are being put in a situation where things are imposed on us. The paragraph read, "The United Kingdom must implement the machinery necessary to ensure that Gibraltar enjoys Community status on all matters but, in particular, those that affect the freedom of establishment and of commerce and of persons, financial institutions and the development of Gibraltar's financial sector. The responsibility being that of the United Kingdom, there would appear to be two options, either the United Kingdom itself legislates, regulates and supervises....." That is an incredible thing to say in September 1992 and to come here and say now, "What is the United Kingdom up to?" Well, they were up to

HON P R CARUANA:

Mr Speaker, if the Chief Minister will give way. He is not imputing those views presumably to me because I am the only person who has come here. I think he ought to choose his words a little bit more carefully.

HON CHIEF MINISTER:

Mr Speaker, I preface my remarks by saying, "they may or may not be aware of the existence". [Interruption] No, I am saying the views expressed then run a coach and horses through the views expressed here. [Interruption] Mr Speaker, the members of the chambers of Triay and Triay, who are not representing their chambers here, presumably, when they are in the chambers....

HON P R CARUANA:

That is wrong as well. The Finance Centre Institute is a professional umbrella organisation of the entire finance centre industry of Gibraltar. It is their report that found its way into Mr Garel Jones. It may well be that paragraphs were adopted by the rest of the finance centre industry, that originated from the representations made by one member of the industry in particular, but they were therefore adopted by the whole industry. What went to London is not a letter written by the Leader of the Opposition's father-in-law. What went to London, was the submissions of the finance centre institute of which, as he well knows, there is a large committee.

HON CHIEF MINISTER:

Then he is aware, Mr Speaker, of what went to London and what went to the Institute.

HON P R CARUANA:

As a member of the finance centre industry, I get the minutes of it.

HON CHIEF MINISTER:

I see. I find it incredible then, Mr Speaker, that if he was aware in September 1992, he should not have put in September 1992, as strongly and as vociferously, as he puts in this House, the arguments against something going to London saying "the responsibility being that of the United Kingdom Government, there would appear to be two options, either the United Kingdom itself legislates, regulates and supervises, as its responsibilities dictate or alternately, allows the Government of Gibraltar".

HON P R CARUANA:

I am sorry, that is not a public document. That document has never seen the light of day. He had it. I did not. Why did he not comment?

HON CHIEF MINISTER:

I did not have it and he did not. If the hon Member did not have it, then how can it be....[Interruption] The hon Member has said that he is a member of the Finance Centre Institute and he gets the minutes. So he is telling me, he did not know this went to London or did he know?

HON P R CARUANA:

What I have seen is the minutes of the meeting at which the report was adopted. I cannot comment publicly on that. The Chief Minister had it in his public capacity. I did not have it in my public capacity. He had it in his public capacity and he did nothing about it.

HON CHIEF MINISTER:

Mr Speaker, I am not going to give way anymore. I counteracted it with Garel Jones. I said that this was not the view of the industry. It seems to me incredible that these views should be put to London without everybody in the industry being given the opportunity to say whether they subscribed to it or not. Mr Speaker, if we want to start making assumptions about what triggered something or what did not trigger something, I happen always to be meticulous when I decide to do something, and do my research and quote, then if we are going to say what happened, I can say one

thing, something happened in September 1992. In September 1992, two things happened, this went to London and I had a row with Garel Jones over it saying that we did not accept that he had any of that right and that is a minority view and I was presented with this in London. This was not sent to me. This was sent to London. Let me say the significance of that is that the reply of the British Government..... I do not know whether that reply was shown to anybody. I do not know whether in the chambers of the Leader of the Opposition, the only man who saw it was his father-in-law; nobody else knew about it. Nobody knew what went and nobody knew what came back. [Interruption]

MR SPEAKER:

Order, order. If the Chief Minister wants to give way. There must be order in the House.

HON CHIEF MINISTER:

What did come back, Mr Speaker, was a letter through the Convent which said that in particular the paragraph 7(3) of what had been submitted was something that the United Kingdom subscribed to. Paragraph 7(3) is what I have just quoted. So the United Kingdom, at the meeting with me in London, said "Here you are being uncooperative about what needs to be done in Gibraltar, and in fact, the people in the industry in Gibraltar are telling us the opposite." So much for widening consultation. "They are telling us that the UK is free to legislate in London for Gibraltar or free to allow you to legislate and allowing you to legislate means that if we allow you to legislate, we tell you what we allow you to do". That is what went to London and that was the response of London. In September, we then had a situation where the United Kingdom was saying to me, "No changes to the Financial Services Ordinance. We have just excluded you from the UK and therefore from everywhere else in Europe. We thought that it was a mistake, but it is not a mistake. It is going to be put right by the end of the year, but we want you to advertise the job". That was the state of play in September 1992. I told the Minister in London that I had given an undertaking to Mike Davidson, when I had spoken to Sir John Quinton, that if he came to the Financial Services Commission as Banking Supervisor he would be the understudy of Penman Brown and take over, and that I did not go back on my word. If I had to have a show down with the British Government over it, my word was more important, because I thought that was fundamental. Given that they felt so strongly about the job not going to the second-in-command, but being advertised because they said it was important for the international image - I cannot imagine why - I would talk to Mike Davidson and explain the problem and if Mike Davidson accepted that, notwithstanding the undertaking that I had given him, he would release me from the obligation, then we would advertise the job. Mike's response was "I do not want to create a problem for Gibraltar with the UK Government. I am confident of my ability to

compete and provided I am not going to be blacklisted because you want me, then I do not mind the job being advertised". The job was advertised. One hundred and forty eight people applied. It cost £5,000 or £10,000 or £20,000 to put it in the Economist and in the Financial Times so that the whole world would know what we were doing. We short-listed people and when they were flying to the interviews to Gibraltar, the Governor calls me in and says "London has said they do not want the interviews to take place". "What sort of game is this? What are they up to? This is a serious business". "They have changed their mind again. Now they do not want the interviews to proceed" and I said to the Governor "This is not on, these people are going to think we are a bucket shop operation here. We advertise all over the world and then when people are flying in here, what are we supposed to do? Tell them to parachute wherever they are and not arrive here?" The Governor agreed with me, in fact, and went back to London and said "We are sorry, we cannot stop this". So we had the interviews and as a result of those interviews, people were selected and then the United Kingdom came in and said they did not want the appointment to proceed. The Governor said, "Under the law I can make the appointment. I do not need the approval of London, but it is not worth having a row. Let us put it on hold." So we put it on hold to try and see what was the problem now. They then came back and said that they wanted to proceed with the appointment but that they wanted to include other candidates and in order to include other candidates they wanted to trawl in the United Kingdom, in the Treasury, in the Civil Service and in the industry amongst people that were known to be OK; without advertising. I said "Wait a minute, is it not true that three months ago, when I wanted to appoint somebody without advertising, this was going to be very bad for our image? How is it that it is bad for our image if we do it and it is good for our image if you do it? How does this work?" Anyway they went down the road of trawling and interviewing. I made it very clear that one thing that we would not accept was if effectively this was just a charade and what they were doing was really planting a Treasury official on us. They went through the whole rigmarole and they finished up with the man that we had selected originally here and then they said "He is the right man. We agree that he should be the new Commissioner". He is still the same man who is kicking his heels somewhere. Apparently they tracked him down to Hong Kong recently. But, we could not proceed because we now had to move on the ministerial review of the legislation which had been holding up our inclusion in the United Kingdom and this was in November, and this was when I went to the United Kingdom and we came out with a joint statement. Following that, Mr Speaker, they came up with a number of proposals which we turned down and on which we have been arguing with them since. But they also did something else. They came back and said that notwithstanding what they had told Lord Bethel and me, that we would be included as Community Credit Institutions in December 1992, they had now discovered that it was not possible to do it because under the Financial Services Regulations or the Banking Regulations that they had introduced in the United

Kingdom, the power to do so was derived from section 22 of the 1972 European Communities Act. They had come to the conclusion in December 1992, when the regulation came in, that there was no virus; there was no power under section 22 of the 1972 Act, to extend Community rights to Gibraltar Institutions in the United Kingdom, because the right was only to give Community rights to other Member States and we were not a Member State. They discovered this in December 1992, although the legislation was passed in December 1972. We are still left out! The law of the United Kingdom still says our banks are not Community banks; today; still. The UK said in December 1992 that although they discovered this technical problem, it was not that they want to leave us out, but they had to take a new Banking Act to the House of Commons which would be the Gibraltar Banking Act for which time has to be found in the Parliamentary time-table. They cannot tell me when that will happen. What is my reaction; assuming they were all acting in good faith, assuming that this is not some game? I said to them "Can I have the text of the legal opinion that you have been given, because after all if you have said different things at different times, is it not possible that whoever gave you the advice in September that it could be done was right and whoever gave you the advice in December that it could not be done could be wrong, assuming we are acting honestly with each other." It takes a very long time for them to finally get round to answering me. They said, "Yes, you can have the advice", and then three months later they came back and said "No, sorry we cannot give you the advice we have had, because that advice is confidential to Her Majesty's Government. It is internal from the Treasury solicitor so we cannot give it to you. But we can summarise it for you." I take the advice. We spent £5,000 of our own money. We get three top UK QC's, presumably UK qualified and with the right colour of hair and eyes so there is no question about what we are doing, led by Sir William Wade. I am told the top people on constitution and EEC, who then look at that and say the Treasury solicitor is nonsense and my arguments, and I know nothing about the law, are right. So we go back to them and say "We have now got an opinion ourselves. You will not show us yours. We will give you ours". They are still studying that. I have not yet had a reply. During 1993, Mr Speaker, we all know the saga of people here asking "When is this going to be resolved?" and us toing and froing and trying to get a position which was, as I have said, a reconciliation of the positions of the UK and ours, knowing that they do not coincide 100 per cent, but assuming that they coincide 95 per cent and that there is a 5 per cent where we have got different objectives. I will not repeat what I have said yesterday in relation to questions and the Luxembourg saga. I hope hon Members will accept that the detailed information that I have given them, and I do not know whether I am supposed to give it or not, but I am not prepared to take stick because of not saying this and this and this is what happened. I am not prepared to do it. If the Government of Gibraltar make mistakes, and we are

all human beings and we are capable of making mistakes, we are capable of making errors of judgement and we have got an obligation because we have got the responsibility of acting in the name and on behalf of Gibraltar, because that is what people have elected us to do. We have got a responsibility to answer for our mistakes and to be punished for them. But we are not prepared to be held responsible and guilty of having created a situation, which is not of our making, because people in London have been playing a game with us for the last four years. It is all documented and, if necessary, it will all be made public down to the last full-stop and comma. Now if those who wish to attack us, wish to attack us because they are convinced that we are wrong, then I hope this will serve to convince them otherwise. If they wish to attack us anyway, then no doubt, they will find another stick to try and hit us with if we remove this one. Certainly, I have no doubt in my mind, although I cannot prove it, that the position adopted by Spain in July 1993 influenced other Member States and influenced the United Kingdom and, let me say, that in the report I have got of what Sr Solana said in the Foreign Affairs Committee on 19 April, the quote that I have is, "It is positive for us that the British Government should assume responsibility for Community norms being obeyed in Gibraltar. It is very positive for us and I think it has something to do with the talks in Donana. It occurred a few days after or a few hours after the conversation I had with the Foreign Secretary". Well, obviously, Sr Solana is badly informed because it has been going on for a considerable time before they arrived in Donana. But the fact that he believes it to be so, can only mean that the gloss that they are putting on it is that the UK is leaning on us to do something about financial services, in order to placate them. And that is bad news. In that same statement before the Foreign Affairs Committee, Sr Solana made it absolutely clear, as he is perfectly entitled to do, that the UK had signed an agreement in 1987 and that as far as Spain is concerned they are not interested in talking about amending it or modernising it or anything else. They are prepared to talk about anything we want once it has been put into effect. I do not think one can dispute that if we have got an agreement signed by the Foreign Secretary of the United Kingdom and the Foreign Secretary of the Kingdom of Spain, that is an international agreement and there is no other way of putting it. If the Constitution of Gibraltar, according to the UK, says that the UK has the sole responsibility for ensuring that international agreements that apply to Gibraltar are implemented, the parallel between the two arguments, are so visible, that we do not need to be an expert or to know anything about law. How can we say that the UK has got the right to tell us what we have to do in financial services, because it is an international obligation and they are responsible for our international affairs? Spain says, "Fantastic, that is what I like to hear. Now there is another little international affair that you are responsible for, that is an agreement that you signed with me in December 1987. What are you doing to order the

House of Assembly to implement that agreement which still is unimplemented?" Read across is therefore not just in matters of Community law, but in matters of the application of international agreements. I can tell the hon Member, that is the view of Sr Solana put to the Foreign Affairs Committee. I am not saying it is my view.

HON P R CARUANA:

Will he give way just on that point, Mr Speaker? I think that our view in Gibraltar in relation to the Airport Agreement is that the Spaniard would be wrong to hold up that argument because in the infamous agreement of 1987, Britain did not commit itself to achieving anything. What Britain agreed to was, they can choose whether they want it or not, but if they decide that they do not want it or until they decide that they want it, they cannot have the air liberalisation regime. There is no continuing breach of the agreement by Britain. It is very important that Spain should not be armed with the argument that that argument is opened to them. There is no breach of the agreement by Gibraltar or by Britain. We have simply exercised the choice specifically left to us in the agreement itself. They cannot say that the exercise of that choice by us represents a continuing breach of the agreement either by us or by Britain.

HON CHIEF MINISTER:

I do not dispute what the hon Member has said. What I am saying to him is that if Solana believes that we are changing our financial services legislation because the United Kingdom finally is doing what Spain wants them to do, which certainly as I have made explicitly clear..... He has told the Spanish Parliament that the UK has taken this position a few days or a few hours after his conversation in Donana. We know that the UK was taking this position in November 1992, and I have got the record to prove it. But, if that is their analysis of the situation, in the same breath as he has said that, he also said, and there is also pending the Airport Agreement, still unimplemented, where the United Kingdom is failing to honour what it is required to honour. Therefore, to the extent, for example, that Mr Cumming was saying that there is an interconnection between our position and the airport and our position and Brussels and the UK taking a tough line on this and us being at a low ebb, all I am telling the House is that certainly there is that interconnection in the mind of Solana. I do not think that there is that interconnection anywhere else and I do not think that we should work on the premise that that is so. Frankly, there would not be much left for us to do in terms of status or decolonisation or sovereignty or anything else, if we were already being remotely controlled by Madrid via London. If the situation was that Madrid told London what we had to do, London told me and I told the House, we would be in a fine pickle. Certainly, I can tell the House that that kind of transmission, as far as I am concerned, will get no further than London. That is where the chain will

be broken, because it will not happen between London and Gibraltar, and I am not accepting that this is, in fact, if we like, a capitulation to the Spanish position, because, in fact, I do not think this means a Spanish argument at all. I think whatever Solana may think he has got out of Douglas Hurd in Donana, I believe myself and it remains to be seen. Let me say, Mr Speaker, that we will not proceed with the Committee Stage. As far as I am concerned, I am quite happy to leave the Committee Stage of this Bill to when we come back to deal with the Estimates or to when we come back to deal with further legislation and to go back to London because the only thing that I have committed myself with Kenneth Clark, was to give him my best shot and I am giving it my best shot. I have brought it here; I have tried to do it within the deadline that he wanted; arguments have been put in it, they are not new arguments, they have been put before, I am prepared to go back and put them again. I think on the specific question of the confidentiality, what I can say is that the least of things that the hon Member has referred to is already in the existing legislation and was brought by us without any sort of influence from the United Kingdom in 1989. I can say quite honestly, that our input politically into the existing financial services legislation was minimal. We actually practically brought to the House, what had been drafted by lawyers and professionals in the private sector, to whom we said, "The United Kingdom says we have to have the necessary legislation, you tell us what you think we should produce, which will be complying with what London wants, without stifling your opportunity to do business". That is the way we have approached it from the beginning and really when the Financial and Development Secretary brought it here, he brought here something that in a way, if somebody had asked us why is such and such a clause there, we would have been hard put to give an explanation. That is the truth. So it seems to us that they have transferred from the Financial Services Ordinance to the new Commission amending Ordinance what is already in the Financial Services Ordinance except for one new clause, which that there can be a disclosure of confidentiality to the team of auditors that come from the UK, which in itself, may carry dangers because that may make people nervous.

HON P R CARUANA:

Mr Speaker, I am grateful to the Chief Minister for giving way. But of course, the important point is that although those provisions were in the original Ordinance, there is now much less local control, for which I do not mean political control. I fully accept that the Government did not previously politically or in any other way control the financial centre. But the seven members of the Commission who presumably had some influence to bring to bear, if they were not able to make the decisions, they were local people, presumably local interests at heart. They were not seven people recruited from the golden square mile in the City

of London. Even in relation to the appointment of the Financial Services Commissioner, before the appointment was by the Governor, presumably in consultation with the Chief Minister. The opportunity as Chief Minister to influence the choice of the Financial Services Commissioner, I guess, was much greater, without saying how great it was, than it will now hitherto be. Therefore, these provisions, albeit, that they were in the original legislation, now take on a completely new character because in effect they are in the hands of a different animal.

HON CHIEF MINISTER:

I agree entirely, Mr Speaker, that that is indeed the case, because one of the problems that we have is that the practice of this, which is a total unknown, is more dangerous than the letter. We have made the point that this business of the qualification was a nonsense and the hon Member says, "Well obviously they know in London that our qualifications are the same as theirs". Well they did not seem to know in London, that our qualifications were the same as theirs." When I said to them "If you say people qualified in the United Kingdom, everybody in Gibraltar is qualified in the United Kingdom, does that mean we can have Gibraltarians?" They said, "No, that is not what it means". Then I said "Perhaps you should say "Of the seven, four have to be white and three can be black". Maybe we ought to put that in the legislation. Make it clearer to everybody what we are talking about. The Opposition Members can be sure I have not minced my words in putting our case across. I have not been as successful as I would have wanted and they have taken a very tough line and we have been arguing this now for the best part of two years and we have got to the crunch. That is the reality of it. I am prepared to go back and carry on arguing. Therefore, as far as I am concerned, we will not take the Committee Stage and we will go back and argue the case and we will say "It is not just the views of the Government now, the same arguments, which are the arguments we have been reflecting to you, which are the arguments that have been put to us, clearly have been put by people to the Opposition as well as it has been put to the Government. Therefore, people still want safeguards on these points" and we will see whether we can make any further progress or not. In the meantime, Mr Speaker, that is the position and we will take it back.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have nothing further to add.

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 Hon P Cumming

The following hon Members abstained:

The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
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 at the adjourned meeting.

HON CHIEF MINISTER:

Mr Speaker, I move under Standing Order 7(3) to suspend Standing Order 7(1) to take the Committee Stage of the Banking (Amendment) and the Insurance Companies (Amendment) Bills. As I have said we cannot really say we are opposed to that since that is, as far as we are concerned, a move in the right direction from the point of view that it is the Commissioner having the power to appoint the Banking Supervisor if required in consultation with the Government of Gibraltar and not requiring the approval of the Secretary of State. That is something the UK has proposed on the basis that they are approving the Commissioner. That does not prevent us

from saying "We like the second and we do not like the first. So we pass the second and we hold our breath on the first" and we see what they make of that. I think we should proceed with the Committee Stage of the other two now because, in principle, we have no reason not to.

We do not intend to take the First and Second Readings of the Dock Work (Regulations) (Amendment) Ordinance at this stage.

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY GENERAL:

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 1994 and the Insurance Companies (Amendment) Bill 1994.

Agreed to.

THE BANKING (AMENDMENT) BILL 1994

HON P R CARUANA:

It will not put us in a trap will it? Will the effect of adopting these Bills not be that there is no Banking and Insurance Commissioners since no one has been appointed as Financial Services Commissioner under the Financial Services Commission Ordinance? I am not sure who is the Banking Commissioner and Insurance Commissioner now. I am not sure we have one. If we do have one we are disappointing him in favour of someone who does not yet exist. At least on the implementation date of this Ordinance.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I wonder if the hon Member will repeat that. We do have a Commissioner and he is already in effect the Commissioner of Banking. I think the purpose of this particular amendment, apart from the one which refers to the appointment of a Banking Supervisor, is really for the avoidance of doubt.

HON P R CARUANA:

If the Financial and Development Secretary is saying that Mr Mike Constantine is in fact appointed under Section 8 of the Financial Services Commission Ordinance, then the effect of passing these Bills will be that he will now also be the Banking and Insurance Commissioners.

HON CHIEF MINISTER:

He is already. What the legislation does is that it gives him the power to appoint somebody else. At the moment the position is that the Governor appoints somebody else and if there is not anybody appointed then ex-officio, the Commissioner is. Before we had the Financial Services legislation the position was the same. Either the Governor could appoint a Banking Supervisor or in the absence of an appointment the Financial and Development Secretary was the Banking Supervisor and the Insurance Supervisor.

HON P R CARUANA:

We have no comments on the Committee Stage of either of these Bills.

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I move that the figure "1994" be omitted and replaced by the figure "1989". The purpose of that is quite clear. The Financial Services Commission Ordinance was in fact passed in 1989. It was thought at one time that there would be a new Financial Services Commission Ordinance 1994 whereas we are dealing with an amendment to the substantive Ordinance 1989.

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

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

THE INSURANCE COMPANIES (AMENDMENT) BILL 1994

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again the figure "1994" should be omitted and replaced by the figure "1989". Exactly the same reason for this amendment as for the one on the Banking Ordinance we have just dealt with.

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

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

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

THIRD READING

HON ATTORNEY GENERAL:

I have the honour to report that the Banking (Amendment) Bill 1994 and the Insurance Companies (Amendment) Bill 1994, have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

Question put. Agreed to.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Tuesday 17th May 1994 at 10.30 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Tuesday 17th May 1994 at 10.30 am.

The adjournment of the House was taken at 10.15 pm on Wednesday 27th April 1994.

TUESDAY 17TH MAY 1994

The House resumed at 10.37 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Col 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 G Vasquez
The Hon H Corby
The Hon L H Francis
The Hon M Ramagge
The Hon P Cumming

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

COMMUNICATIONS FROM THE CHAIR

Before we start on the Appropriation Bill I would like to express in the House my thanks to the Clerk and his staff for the hard work they put in for the visit of Madam Speaker the Rt. Hon. Betty Boothroyd MP. I think we owe the success of her visit largely to the good performance of the Clerk and his team.

BILLS

FIRST AND SECOND READINGS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Readings of the Appropriation (1994/95) Bill 1994.

Question put. Agreed to.

THE APPROPRIATION (1994/95) ORDINANCE, 1994.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31st day of March 1995 be read a first time.

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. In accordance with recently established convention and at the risk of invoking a Cromwellian interjection by the Leader of the Opposition, I do not propose to make a speech, Mr Speaker and I commend the Bill to the House.

HON CHIEF MINISTER:

Mr Speaker, as I do every year when I talk to the Estimates of Revenue and Expenditure I will be making an overall analysis of the state of the economy.

This year the estimates have been more difficult to put together than has been the case in previous years. In fact, Mr Speaker, as you know from your own length of participation in the House, we have managed in the last few years to come much closer to accuracy in terms of estimating in that the difference between the final outturn and the original estimate is, frankly, only a few percentage points in most heads of expenditure. I think the difficulty this year is primarily because of the assumption that we have had to make which could not be reflected in any case in time for the preparation of the Estimates. In terms of the inter-relationship between Government receipts and the performance of the economy, it is obvious from looking at the estimates that the assumption is a neutral assumption which expects little change in the economy, slight growth of the order of 1 per cent to 2 per cent, which would be somewhere in between the predicted level of growth for the United Kingdom and Spain, according to the most recent estimates produced by the European Commission.

In the actual body of Government expenditure itself, of course, the most important element which will affect the eventual figures is the application of voluntary early retirement by the Moroccan workforce. We have not reflected that in the expenditure estimates and therefore we expect that there will be savings in departmental heads as a result of that. Equally, we have not reflected in the receipts under income tax, the fact that

there will not be those Moroccans employed in Government departments and paying tax. So both the estimates of expenditure and the estimates of revenue were prepared before the end of the financial year on the basis of the workforce as it was in March 1994.

The savings that will occur in those heads, of course, will be, on the other hand, reflected in additional costs, which again I have not included here, in respect of gratuities and pensions and as has been made public, at the time that the package was being negotiated and offered to those concerned, the position is that on balance, we expect that in 1994/95 and 1995/96 over the 24 month period, the cost of the gratuities and the pensions of the Moroccans will come to the cost of what their wages were had they stayed. There will be a net saving in public expenditure from the year 1996/97 onwards but not earlier and that, in fact, in the first two years there will be a net cost to us in the first 12 months. So that in 1994/95, we are talking about a situation where primarily because of the gratuity element - that is, of course, what makes a difference, that is, the pensions is obviously less than the wages but the gratuity and the pension together are more than the wages - we have the cost of gratuity and pension which comes to more than wages. In the second year we have the cost of pension only, which is less than wages which compensates for year one and then in year three we have a saving hopefully. So to the extent that we will see how that is affecting us I would imagine. When we get the figures for July - we normally have internal estimates made in about two months in arrears - we will have to see then what other areas we need to shave in order to be able to square the package.

Another factor, of course, which is not built into our assumptions and consequently not built into our estimating, is the result of the defence review that is currently taking place as regards the MOD presence in Gibraltar. I believe that a decision on that is due to be taken next month and therefore we would expect an announcement shortly after a decision is taken. However, we do not believe that the decision, whatever it may be, will have an impact in this financial year and therefore, not only are we not reflecting it, but we do not expect to have to change anything as a result of the review, whatever the review may be, because the effect of it would not be translated into action so quickly that it would impact on this year's estimates. Obviously, the existing 30/30/50 programme, which was announced by the MOD in December 1991 and which I referred to in an answer to a question earlier on, Mr Speaker, is included in the assumption on employment levels and on revenue estimates.

In looking therefore, at the impact of the MOD on the economy, the Joint Economic Forum will be concerned with making an 'Impact Assessment Study' and with seeking for the avenues of new activities which appear to have the greatest prospects of success in order to replace the hole left in our economy and in employment levels by the MOD rundown. As has already been made public, one of the first elements in this assessment is the setting up of an inward investment consultancy which is being financed out of the money provided under the Konver programme where, as is known, is our share of the United Kingdom's £15 million. The European Union provided the United Kingdom with £15 million and we got £300,000 of that £15 million which was what the United Kingdom considered was our pro-rata share given our size. It is in the Improvement and Development Fund and it has been matched by us with £300,000. Under Community law, we can only get the money if we put up £1 for £1 whatever grant we get. In that Konver project, one element - I think the figure is something like £80,000 out of the £600,000 - is an inward investment consultancy which is supposed to identify and the result of which will then go on to the Joint Economic Forum, areas where there could be prospects of investment into Gibraltar either from the United Kingdom or from elsewhere in the European Community. I think in that context the visit yesterday by the Rt Hon Tim Sainsbury, the Minister for Industry, who we were very fortunate in persuading to come to Gibraltar to launch the European Business Centre, is a very important contact for us because, of course, the inward investment programme of the United Kingdom comes under his Ministry. Therefore, in the meetings that I had with him yesterday, I have already raised with him, that independent of what we are doing, at a level of Government to Government in the Joint Economic Forum, we hope that he will give his political support to the civil servants in his department giving advice and technical help and providing contacts for our people here because, of course, there is no way we can set up a machinery in Gibraltar comparable to anything that the UK has got. Another area, of course, that we are also pursuing in this line of attack, is to try and put in a system whereby the overseas offices of the United Kingdom where there are commercial attaches who may be getting requests for information about the possible incentives that exists in Wales or Northern Ireland or Scotland, should also have available the material on Gibraltar just in case anybody decides that they should want to come to Gibraltar instead of Scotland. It is a difficult situation because, of course, at the end of the day, we are competing with them for the same potential customers, but given our size, frankly, we are not going to require anything on a very big scale and therefore, we will have to see whether anything is produced from that direction although we do

not believe that the kind of investment that the United Kingdom normally seeks, which is investment on a scale and with a domestic market, that we do not have, is likely to be what we can get coming our way. But, nevertheless, it would be wrong to pre-empt what the conclusion will be of that consultancy. They may well come up with the conclusion that on the basis of what we have to offer, we do not have much of a chance of attracting anybody to do anything or they may come up with the conclusion that there are quite a number of things that we can do. At the same time that this is happening, obviously, the other two aspects of the Impact Assessment Study is an inventory of the assets released or likely to be released between now and 1997 by the MOD and the analysis both in terms of demography and skills of the existing MOD workforce. Therefore, if we are really talking - we will wait and see what they are really talking about, 1,000 job losses - then it is not enough to say we have got to replace 1,000 jobs in the Ministry of Defence by 1,000 in the private sector, because, of course, the 1,000 that lose their jobs, if indeed there are 1,000 that lose their jobs, may not be capable of doing the jobs that gets created in the private sector. So before we even look at what we are going to attract, since the primary objective of attracting is to provide alternative employment, let us make sure that they are the kind of business that can provide alternatives for those whose jobs are at risk. Therefore, the three things will be happening more or less simultaneously and then be brought together. Obviously, the announcement next month is the trigger mechanism which will determine to what extent we have to be concerned about the level of unemployment that will arise or otherwise. I would not want to pre-empt again that decision, which is a decision that Ministers have to take in London, but of course, they have had it, as I have said, at question time brought to their attention, that as far as we are concerned, the decision cannot be taken by UK Ministers purely and simply as a defence expenditure decision without reference to the effect that it has on the economy and the time that we need, because it is time that we need more than anything else, to be able to put substitutes in place.

Against that background, Mr Speaker, the House will understand the figure that I gave of the assumption of employment levels which is not based on reliable statistical evidence but which we believe is a reasonable assumption that there are some 13,800 people in employment at the moment and that we expect by this time next year, that the figure will be 13,500. This difference - it is on this basis that the estimates of Government revenue and expenditure have been put together - is, in fact, partly a reflection of the reduction in

our own expenditure in the I & D Fund. We are now talking about a smaller construction industry. Prior to 1988, we had an industry in the private sector that employed some 700 people. At the peak in early 1992, late 1991 we reached 2,500 jobs in the private sector construction industry. We believe we are down now to about 1,000 jobs and that we will be down to about 700 jobs which means the period of expansion of the construction industry will have been completed and we will be down to the basic industry of about 700 jobs by 1995. And it is those changes in the construction industry that are reflected in the total figures for employment that I have given. What that tells us is that outside the construction industry we expect to see continued small growth in numbers employed which we have been experiencing until now and that overall, outside the construction industry, the numbers employed is not going to change significantly one way or the other, up or down in the next 12 months.

Without wishing, therefore, to commit myself to a specific figure, the scenario that I have painted is one where obviously we do not expect to see a large increase in unemployment amongst Gibraltarians between now and the end of this financial year. On the contrary, what we would feel reasonably confident in anticipating is a slightly declining trend. There are, obviously, a number of imponderables. Clearly if there was a dramatic and accelerated MOD pullout announced next month, everything that I have said until now can simply be thrown out of the window and we would have to go to the drawing board again. Bringing down the level of unemployment amongst the Gibraltarians continues to be our first aim of policy and it is on this that most of our energies will be concentrated in this year. The capital works programme which underlines the level of activity which will require a contribution from the Government in the Improvement and Development Fund, which as in previous years will be met by the capitalisation of Government properties, is reflected in a figure this year which is slightly down on the out-turn for 1993/94. As I have done in almost every other budget, let me explain once again, Mr Speaker, that the money received by the Gibraltar Investment Fund will be recycled back into the Government and the expenditure is being voted in this House out of the Improvement and Development Fund and it comes to £9.6 million. The income of the Fund which the Financial and Development Secretary gave the Leader of the Opposition in an earlier question, will be sufficient in our estimates to be able to meet the level of expenditure that we are budgeting for and in addition the national debt on issue will be increased within the £100 million ceiling that we have in our legislation. We see no requirement in the current financial year to bring

amending legislation to raise the ceiling. The Capital Investment Account and its contribution to the gross domestic fixed capital formation has now gone through a period where from 1988 to 1991, it experienced very rapid growth and again, it is the parallel of the numbers employed in the construction industry. We expect it now to settle at around the level shown in the estimates going back to something of the order of £8 million per annum which was the kind of figures that we used to have in the past. Of course, at this level, it still represents an important contribution to economic activity and it still represents an important creator of jobs but that is the steady ongoing year in year out level of capital investment level that we would expect to be needing to finance from Government resources.

Before dealing with some other issues and with the recurrent expenditure I would like, Mr Speaker, to deviate slightly to point that the picture that I am painting is one of difficulty but not of cataclysm. We do not have to rush off panic stricken to our neighbour wanting to sacrifice our right to our land, our right to our airport or our right to self determination, as Mr Cumming seems to be urging everyone to do. Gibraltar is not facing imminent economic collapse. It is facing a period of slow growth after a period of unprecedented high growth which was predicted and expected. It is facing problems in coping with MOD cuts and with diversifying its economy, mainly because its legitimate right to do business in the European Union has been inhibited by Spanish challenges and the failure to adequately protect Gibraltar's position in the past before Spain joined. Mr Speaker, if we had a British regional airport covered by Community law in 1983 and we have been totally without justification, deprived of this status and excluded from the European Union in 1987, to appease Spain and to have the veto that they imposed in June 1987 removed in November 1987, then, Mr Speaker, that is not reason why we should be prepared to cave in and capitulate in 1994 or 1997 and no GSLP Government will under any circumstances be prepared to see Gibraltar's airport under joint sovereignty between the United Kingdom and Spain whatever economic problems we might face. As an individual citizen, Mr Cumming, may hope and freely express whatever views he has. As a Member of this House, he is exposing a policy of surrender that no-one has ever put forward since I joined the House in 1972 or to my knowledge ever before that. He is, Mr Speaker, playing a dangerous game. The danger being not for himself but for Gibraltar as a whole, and he has absolutely no mandate to say any of the things that he is saying. I have deviated to this extent, Mr Speaker, because I believe it is important that the hon Member should understand that this is not a child's game

and this is not just him being clever writing letters to the Chronicle; he is actually playing with things which have got great momentum and the people outside who may now know him as well as I do all these years, who monitor his letters and monitor his appearances from Madrid or wherever, may actually be getting the impression that we are all on the point of despair. That is not going to produce love and kindness from the other side, believe me, what it is going to produce is a tightening of the screws.

Turning back to the state of the economy and the parameters within which we will have to work in this financial year, I think, Mr Speaker, it is obvious to all of us the changes in the Financial Services Commission requested by the United Kingdom. I will, when we come to that Bill make a statement which will be effectively the reply I received the day before yesterday from Mr Kenneth Clark, addressing specifically all the points that were raised by Members of the Opposition and it is on the basis of that reply that we will now be proceeding, as far as the Government is concerned, with doing what Mr Clark will have us do and see what happens. Certainly, from our point of view, what we expect to be able to achieve out of this, is that Gibraltar will have the ability to operate as the thirteenth jurisdiction in the European Union accepted by the other 12 as being of equal standing. Whatever, anybody else may say, whether it materialises or it does not - I believe we are entitled to this, without any of the changes that are being asked - will remain to be seen. What we can say is that the only country which is guaranteed will open its doors to us is the one that Mr Clark controls, for obvious reasons because he is committed to allowing passporting into the UK from Gibraltar with Gibraltar being treated as a separate Member State. Whether he is also able to convince Community partners and we hope at least he will be able to convince 10 out of the other 11 that that must also be respected, then if he fails with the 11 none of us will be too surprised.

Obviously, the impact that that has on the financial services industry which in terms of employment in the private sector is an important industry. It employs something like 20 per cent of Gibraltarians in the private sector and it was the third employer, it is now the second, given that the construction industry is no longer the first. So it is the second after the retail trade. We do not expect, if the benefits are such as the United Kingdom believes they will be, that that will happen quickly enough for us to see that translated in this current year. So again, we have not had in our estimating to make an assumption about whether the effect is going to be a good one or a bad one because good or

bad we do not expect that it can happen so quickly in terms of the time it takes for people to make a decision on coming into the Gibraltar economy to set up in business. We do not expect that that is going to happen in six or nine months. But clearly, we will have to monitor this very closely because we should be getting some indicators over the rest of this year whether the effect is - particularly indicators from people who work in the industry - that they have got more people knocking on their door or more people heading for the door. Obviously, we have tried to protect Gibraltar's position in this respect, as hon Members know, by putting in the caveat in my letter to Mr Clark that should our reservations materialise, we expect them to come to us with the solution, because we have not got the solution if the result of the worries about confidentiality or whatever means that we do not get a new kind of business and we start losing the traditional kind of business. We do not have an answer for that and since this is not our baby, then we will go back to UK and say "Unfortunately it seems to be going the way we feared rather than the way that you were optimistically recommending to us we could count on." So we have not in the estimates made an assumption that is going to be go one way or the other way. I think it is very important that we keep a very, very close watch on the situation; that we get a feedback from people in the industry and that we have an early warning system if we get any indicators that it is going bad. If it is going good well frankly we do not need to worry about so it is not that important.

Another element that I think will need to be clear, we are not reflecting in these estimates, is any change in the relationship with our neighbour. We do not expect that in the current year there will be any improvement in the relationship between Gibraltar and Spain which can have any impact beneficially on our economy. Certainly, the ferry service agreed by Her Majesty's Government with Spain in 1984 and due to commence in February 1985 is unlikely to be arriving in port in 1994. The reactivation of the local forum, the Economic Coordination Council, is therefore not a very probable event. Frankly, that is regrettable because it gave us, I think, an opportunity to try and remove domestic relations from international politics but it is quite obvious that it is already a political football, not just in national policy but even in municipal elections and the Government of Gibraltar has got too many real problems to grapple with to play games with the mayor of Algeciras or anybody else that has got nothing better to do. So I think it is unlikely that unless we see a change of attitude, which I do not expect to see between

now and April next year, it is unlikely that we shall see that functioning.

Two other external events again for which there is no contingency planning and no contingency funding is the Moroccan court case which was there a year ago and which is still winding its way through adjournments but which presumably at one stage will have to come up and somebody will have to make a ruling which deals with the claims of the Moroccans that under the 1976 Morocco/EEC Agreement, of which none of us in Gibraltar knew nothing until 1992, they are entitled to benefits and payments which they have not been getting and for which we have no money. Obviously, we are not making any provisions to meet that. We are working on the assumption that the advice that we have had in the past holds good and that, I am sure Opposition Members know better than I do, presumably they are getting opposite advice, otherwise they would not be taking the case to court. There cannot be such a cut and dry affair as to enable one to say it is 100 per cent certain that the case is won. We have obviously, from the inception, without any success let me say, made clear to the United Kingdom that we consider them to be responsible. It is true there was no prior consultation with the Government of Gibraltar on the 1976 EEC/Morocco Agreement. It is true that there is no record of the United Kingdom having told the Government of Gibraltar between 1976 and 1992 that certain measures had to be taken and, of course, it is true that the 1969 Constitution is explicit on the question of labour from abroad being retained as a UK responsibility and not a defined domestic matter and it is a matter of record that in 1969, when I believe you were in Government, Mr Speaker, the UK Government told you that it was none of your business that they wanted to bring Moroccans to Gibraltar. So given all those recorded historical facts, obviously we will fight the case and we hope and expect to win it, but we are not providing any money in case we lose it and should that disagreeable event materialise from our point of view, because it would bring us again into a situation of conflict with UK as to who pays, we would obviously pass the bill. That is also true of the other court case which is the question of the Spanish pensions. Again, we are defending the case; the case is against us. Certainly, there is not the remotest possibility of these estimates being upped by £10 million a year to pay the Spaniards: not the remotest possibility. I do not think anybody in his wildest dreams expects that to materialise. The position that we have got, as far as we are concerned, is that the agreement we implemented in 1993 was the agreement the United Kingdom required us to have in 1988. We will defend that position but, as I say, clearly we are not making any kind of provision whatsoever for the

possibility of losing either of those two cases. Without a doubt, a negative outcome there would mean that the United Kingdom would obviously have to take the responsibility.

The forecast outcome for the year that we have just ended, Mr Speaker, is about half of the amount we budgeted for last year and this is due to us producing slightly lower expenditure and not to better than expected levels of revenue. In the current year, as I have already explained, the estimated figures are bound to change because we have not taken into account the early retirement package. Although the scope for future savings in recurrent expenditure because of streamlining and retraining and redeployment gets more difficult by the year, I suppose it is not too hard to understand that the areas where there is more fat are the areas that are easiest to tackle and consequently the ones that get tackled first. The more we prune the system, the more difficult it is to prune. Notwithstanding that, it has to be, as far as the Government is concerned, an ongoing exercise if we are to keep on top of the level of public spending and we believe that it is very important that we should do.

We have, as was made clear in answer to a previous question, no specific plans for contracting out any new areas of work over the next 12 months. As is already known, the only area where this has happened recently has been the Philatelic Bureau and in the street cleaning area where a number of tenders have been granted but there has been really no transfer from the Government to the private sector. So it is not like the other areas where we have actually moved people from within the Government services to the private sector. In this case it is the Moroccans that have gone back to Morocco and Gibraltarians will be employed to carry out those cleaning contracts and the cost, of course, will be less and the numbers employed will be less, otherwise there would be no savings, and if there are no savings, there would have been no point in doing any of the exercise in the first instance. We might as well have kept the people we had.

So therefore, the overall level of the Government finances is unlikely to change other than in the areas that I have already mentioned and we can expect the level that we have now sort of settled down to be more or less what is the basic minimum beyond which we cannot realistically reduce very much. From our point of view, the big changes in the structure that we saw necessary in 1988, as I mentioned in my New Year message, Mr Speaker, have now been completed. It is now really a question of seeing where some detail can be improved where as a

result of say comments by the Principal Auditor we get somebody to take a look at a particular area to see whether some savings can be made but these are not the kind of changes that are likely to see the kind of alteration of the structure of the estimates of expenditure that has been a regular feature of the last five years. The pattern now is the pattern that we thought was attainable and that is what we have got. Obviously, if somebody comes along with a proposal in a particular area which we think is in the public interest from the point of view of being able to provide a more cost effective service, then we will look at it, but we ourselves do not see a great deal of scope left. Therefore, the present level is what we consider to be the roughly sustainable level of Government spending and Government receipts and it is the level at which we expect it will continue.

As I said at the beginning, Mr Speaker, the primary objective is to reduce the level of unemployment amongst the Gibraltarians and it is on this specific point that we are going to be concentrating our energies and it is for this purpose that we need on the one hand, to keep a tight control on public spending to provide the environment from which when we are offering Gibraltar as a location we can demonstrate that we have got a competitive location from which people can do business into the Single Market, creating real jobs where there is real output. In the past we had a level which reflected the kind of autonomy we had which clearly is not going to be the one we have in the future. The MOD is now down to 11 per cent of our manpower and 10 per cent of our GDP. By 1997, at best, it will be 5 per cent. Probably it will be even less than that. When we are talking about an economy which is 5 per cent MOD, we are talking also of an economy which is 95 per cent not MOD. That is a totally different animal from what we had in the early 1980's. Therefore, we have to look at that scenario to develop the Gibraltar of the future.

The picture is one where we continue to face difficulties. There is no point in pretending otherwise; it is a tough job. I have explained this repeatedly since 1992. We have nevertheless a solid economic base to enable us to sustain, certainly the present employment levels and economic activity and to be able to meet our recurrent commitments. We can within our existing borrowing powers meet our capital investment programme. These are fundamental elements which not many other Governments are able to say with the same clarity in other parts of the European Union and that needs to be understood, Mr Speaker. We do not need to minimise that it is tough; we do not need to minimise that we are going to have to ask our people to be flexible, to accept

retraining, to go into areas which they have not wanted to do before, to try and make Gibraltar as self-sufficient in labour as possible and that this is not an easy thing to do and that it will occasionally create discontent and that it will require a lot of persuasion but that does not mean that the basic foundations are anything other than rock solid; they are. But in that tough competitive world with which we are not familiar and in which we will have to succeed and survive, we can of course be blown off course very easily because of the smallness of our economy. It does not take much in terms of accelerating the MOD rundown from what is already in the programme and it does not take much in terms of Spain objecting to our banking licences, objecting to our airport and objecting to everything they can think of objecting to. It would not take much if with the smallness of our economy, notwithstanding the solidity of our foundations, to blow us off course because the course that we are mapping is the course which is saying to the House and particularly to the people of Gibraltar outside the House, keeping the levels we have got today is something we can, with reasonable confidence, expect to be able to do, of course unless somebody is gunning for us. If somebody wants to make sure we do not get there, then we will not get there. Let us be clear. Equally if we are moderately successful in making a breakthrough in one of the many areas that we are looking to, equally, that is the other side of the coin. An economy as small as ours which is being navigated on a particular course can be sunk very easily but can also get a head wind and go much faster and that is one of the advantages that we have got to be able to learn to exploit. It is the advantage of being small and being able to get into areas in the European Union where bigger economies cannot be bothered to be. The development of Gibraltar within the European Union is not a difficult task, given the size of the market and given the size of Gibraltar and it is on that basis that when we are looking at where we go in 1994/95 and beyond, what we are saying is the imperponderables that face us are not going to have, really, Mr Speaker, any effect to speak of in this financial year. I think this financial year will show us whether in 1995/96 and beyond we are facing new dangers or whether in fact we are beginning to see the ability to produce a return on the investments we have made in the past. If we are able to get a return on those investments which would not be possible if the investments had not been made and we take the full political responsibility for the decision, a clear-cut policy knowing what we are doing and knowing why we were doing it and therefore if we get the return on those investments, the reality of it is that running the estimates will be a piece of cake. The money will just flow in, we do not need to do much more, it is all there.

If we do not get the return on those investments to the level we expect we can still maintain the level we have got today. We are not going down, we can still maintain the level we have got today and that needs to be understood, subject, as I said, to extraneous influences trying to make sure that we can and it is on that basis that we face this year and next year and an election in 1996 with the confidence of the ability of my Government, Mr Speaker, to take the people of Gibraltar into a dignified, secure and stable economic and political future.

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, just if I could make a little quip on the Chief Minister's last remark, of course there is no magic to running an economy. If the possible threats that lurk in the horizon to it do not materialise, the art of running the economy of Gibraltar is to run it successfully notwithstanding the obstacles that others will seek. I think that the Chief Minister is far too hypothetical in his presentation of the possibilities that others will seek to put in our path and therefore it is really not very helpful to say that we will succeed if Spain does not succeed in sinking us. That has always been the position of the Gibraltar economy that we have always succeeded provided that the supports are not withdrawn from us.

Mr Speaker, before starting on my own observations in relation to this debate on the Appropriation Bill, I would like to deal - just to make sure that I do not forget to do so - with the subject matter of the Chief Minister's diversion, as he called it, from his own speech in relation to matters of international political input. Government Members know that my party in Opposition attaches a larger degree of importance to the question of dialogue with Spain than they attach to that and that is because we think that if through a process of dialogue we can improve the relations, lower the tensions in the relations, simply buy time for the economy of Gibraltar, which is what the Chief Minister said earlier and I agree with him this economy needs. That would be to the advantage of Gibraltar but of course in holding that position and in going even a little bit further than the Government are prepared to go in respect of dialogue and that little bit further is our different positions in relation to the Brussels Agreement. We are not so naive as to believe that our willingness to participate in

friendly dialogue will either necessarily be reciprocated nor will it necessarily or even likely, meet with any prospect of success. It is only because we think we can undertake that process without danger that we are willing to go through with it at all. But let me reassure this House, if any reassurance is required, - I suspect that the Government Members are very clear as to what the policy of this party is - that this party in Opposition, does not regard the question of our problems with Spain as one that we are willing to allow to be affected by economic expedience or by the needs of this economy in the short term. Long before this community was put in a position where it has to sacrifice and forgo its primordial principles on that subject, because of economic need, this community will have to go to the United Kingdom and will have to say to the United Kingdom "Look, it is simply not morally tenable for you to hold up the preamble to the Constitution and indeed now cast it in stone, on the one hand, but on the other allow the substance of the content of the preamble in effectively emptied out on the basis of economic need". That, Mr Speaker, is the importance that I have always attached since I have been a member of this House to the need to maintain, indeed foster and develop, closer ties with parliamentarians in the United Kingdom because it is ultimately they who will be the most receptive organ of the British establishment to an attempt on Gibraltar's part to be relieved of the predicament of having to be excessively pragmatic to Spain on the one hand and due to financial expedience on the other. Just before I leave the question of dialogue no one should misinterpret that to mean that this party dilutes its commitment to dialogue with Spain. We believe that Gibraltar has much, possibly, to gain from participating in dialogue in order to establish good neighbourly relations; in order to try and reduce to whatever extent may be possible, the heat in the relationship but that is a course that we follow knowing full well that it may fail and knowing, as we think that we know, that it can fail without damage to our overriding interests. In relation to the airport, let me say for the avoidance of any doubt that might be caused by recent statements, the policy of this party has always been, is and shall remain, that we reject the 1987 Airport Agreement precisely because it involves a sharing of the sovereignty over the airport. We have made it equally clear, and this is something that also differentiates us from the Government members, they have been heard to say that they do not even attach a great deal of importance to a commercial airport agreement. There we differ because we think that if Gibraltar could strike a simply commercial airport agreement, with no political sovereignty implications attached, that is capable of making a significant contribution to the economy of Gibraltar but that in relation to the 1987

Airport Agreement, the policy of this party, as indeed, I think it has been of the members of the House in general, is that any sharing of the sovereignty of the airport is not a price that Gibraltar should be willing to pay or indeed needs to pay for whatever commercial advantage may accrue from the Airport Agreement.

Mr Speaker, it is difficult to avoid repeating some of the points that I made last year in this debate. But mindful of the fact that I went into them in a lot of detail last year, and in an attempt to shorten the length of my intervention on this occasion, I will not repeat them in detail except to the extent that is necessary simply to preserve the record. Gibraltar, we believe, has the same problems as we described last year but worse. I think we suffer from the same Government policy failures that we criticised last year but I think that those policy failures are now more obvious than they were last year. I think we suffer from the same ineffectiveness of Government to remedy the problems that Gibraltar faces except that, I think, that ineffectiveness is now also more obvious to more people in Gibraltar than it was last year. I repeat, for the record, that the Estimates of Revenue and Expenditure that we are debating through the schedule of the Appropriation Bill contains no details of the revenue or the breakdown of expenditure on such important items of revenue as import duty, company tax, exempt company tax, stamp duties and others of lesser significance and that all those items are worth about £37.5 million in 1993/94 on the basis of forecast outturn figures provided. Important areas of expenditure items such as health, non-statutory discretionary community care, and, indeed, some statutory benefits are also not available to this House. As we all understand this situation reflects the Government's policy to reorganise their finances. Whether it is so as to avoid or simply with the effect of avoiding - it is not necessary for me to distinguish - but certainly the effect is that £37.5 million worth of revenue and expenditure escapes the appropriation mechanism of this House and, therefore, the scrutiny of this House except of course eventually in respect of an eventual consideration of the accounts of Gibraltar two years after the event when we get them. We once again wish to record our condemnation of this practice and I would simply say, at this time, that for that reason and because we consider the amount of financial information given in these Estimates at the time that we have to vote for appropriation to be insufficient in so far as they present an incomplete picture of the financial position of the Government of Gibraltar, we will, as we did last year, be abstaining on the appropriation and certainly on the Second and Third Readings of the Bill. I believe, Mr Speaker, and Government are aware that it is the view of

this party in Opposition, that one of the functions of the House is to act as a guardian of the public purse and that in that capacity it is entitled to the whole picture of revenue and expenditure proposals at this stage of the Estimates of Revenue and Expenditure and not just historically as they may, deficiently, given the use of companies or special funds, be reflected in the public accounts of Gibraltar. We believe that this House's ability to debate economic policy and to scrutinise the Government is hindered by the incompleteness of the revenue and expenditure information now contained in the restructured Estimates. We believe that this House as a legislature - I recognise of course that half of it comprises of the Executive - should jealously guard its control over the appropriation of funds by the Executive and if we are a lone voice in this House in defending that principle it is because the other half of the House obviously does not have the same interests as we do given that they are the Executive in preserving the control of the legislature over themselves, namely the Executive. That does not dissuade us from maintaining the view that we hold on this issue. We believe, Mr Speaker, that the effect of all of this has been the Government's accountability to this House and therefore to the people of Gibraltar has been unacceptably compromised by the diversion of large chunks of revenue away from the Consolidated Fund and therefore of the appropriation mechanism of this House, to special funds. The prolific use of companies that do not account to this House, notwithstanding that Ministers serve as their directors, and the pattern has now emerged of only two meetings of this House a year and therefore only of two Question Times a year. We believe that this pattern; this system; this regime of accountability of executive to Parliament - not all of which deficiencies I will admit have been invented by this Government or even exploited or developed by this Government, some are inherent in the Constitution and were defects before 1988 - but we believe that the regime as it exists today in this House is not in keeping with that degree of autonomy and with that degree of self-government over our own affairs to which we all in this community aspire. Therefore we believe that it is a good time for the Opposition to put proposals to Her Majesty's Government for internal constitutional reforms - by which I mean internal as opposed to external - being constitutional provisions that affect the way, domestically, the institutions of Gibraltar work in relation to each other as opposed to external which relate to our status and our relationship with the United Kingdom. It is now a good time for the Opposition to press Her Majesty's Government to legislate constitutional reforms to guarantee the ability of this House to discharge its duty as a modern parliament in matters of financial accountability and the control by

the Executive of its revenue. We will be pressing Her Majesty's Government for constitutional reforms to ensure regular meetings of the House and Question Times; for constitutional requirements that companies owned by Government and companies owned by Government in which Ministers act as Directors should be required to account to this House. I do not mean account to this House by simply containing a statement of their issued share capital in the accounts of the Gibraltar Investment Fund. I mean meaningful accounting. In other words, the accounting of the company and not the accounting of its share capital. For a constitutional requirement that this House have a public accounts committee and for a reduction in the powers of the Chief Minister who is, after all, the Executive in deciding the structure of the meetings of the House. In other words, that parliament should not depend for how frequently it sits, for how its agenda works, for when it sits and for the structure of its meetings and its internal composition that it should not depend for those things on the views and the decisions of the Government of the day. I do not mean this Government of the day, I mean this Government of the day or any future Government of the day. I think it is high time that the parliament of Gibraltar had its own free-standing constitutional structure separate from the executive decisions and the executive opinions of the Chief Minister of the day as head of the Executive of the day. Certainly, we will be pressing for a closing of, let us call it neutrally, a loophole. We think it is an abusive loophole. The Chief Minister would argue and has argued that it is a legitimaee loophole. That is an argument that exists between us but certainly we will be ensuring that the constitutional proposals that we put to Her Majesty's Government in terms of internal regulation of this House will close the loophole whereby the Government is able to divert public revenue away from the Consolidated Fund and into special funds thereby, according to the Chief Minister's interpretation of the statutes in the Constitution, enabling him also to avoid the appropriation mechanism of this House. That is why we are here today discussing an Estimates of Revenue and Expenditure in the order of £70 million as opposed to the Estimates of Revenue and Expenditure of about £96 million - by now it will probably be about £105 million - that we used to discuss before this process had begun. The difference is that £36 million or £40 million which now no longer goes through the Consolidated Fund and therefore is not reflected in the Estimates. Finally, we shall be pressing for clarification of the Constitution to prevent what we regard as an abuse of subsidiary legislation. Let me make it clear, Mr Speaker, that the Opposition support the localisation of power but not necessarily the localisation of power exclusively in the hands of the Executive of the Government. We support the

localisation of power in the hands of local institutions, one of which is the Government but another of which is this House. The Government cannot be allowed to create the impression that the welcome process as it is of decolonisation of what I call the wink and nod variety where more and more power is relinquished by Her Majesty's Government in relation to the internal affairs of Gibraltar. That can only be effected by depositing that power in the Government as opposed to in other organisations that exist locally of a non-colonial characteristic to ensure that adequate checks and balances exist. Not, as has been said by some of the more ill-informed prolific letter-writers in the local press who appear to believe, that checks and balances is inherently a colonial concept. Checks and balances of the modern democratic variety that exists in every parliamentary democracy in Western Europe.

Mr Speaker, in relation to the state of the Government's finances, I have to preface everything that I say with the caveat that, although there is a large area of overlap, I like to consider the state of the economy under the two separate headings of the state of the Government's economy, so to speak, in terms of their finances, and the state of the private sector economy on the outside, although, of course, the latter very much determines the former. The comments that I make are subject to the caveat that they are on the basis of the information available to this House through the Estimates of Revenue and Expenditure as they now appear and through answers to such questions as we formulate and which obtain answers in the form of financial statistics. On that basis, and with the caveat, who can doubt that the picture shown in these Estimates is one of a rapidly deteriorating reserve and budgetary position of the Government? The crux of the matter is that at 1st April 1993, the Consolidated Fund balance stood at £4.3 million, that in the financial year just ended the Government have forecast they have operated a budgetary deficit of just over £700,000 reducing the forecast consolidated balance as at 31st March 1994 at nearly £3.6 million and that for the financial year just beginning, the Government are estimating that they will operate a budget deficit of £3.4 million which, if they are accurate, as they say they now are - at least in so far as revenue is concerned in a couple of percentage points - means that by the end of the current financial year the Consolidated Fund balance will be reduced to £181,000. Of course, there was a time that the Consolidated Fund balance was the magic figure because there was a time that the Consolidated Fund represented not just a clearing account through which recurrent revenue and expenditure was collected and spent, but it also reflected in effect, the reserve of the Government of

Gibraltar, in that the amount of money that was in the Consolidated Fund, when the Consolidated Fund was differently operated, was the reserve of the Government. If one looks through Hansard one will see that all the debate centred around "at the end of this year the Consolidated Fund balance would be this or that and therefore the reserves are depleting and this and that....." Of course, I do not lose sight of the fact that that is no longer the case and that one would therefore be silly now to assume, even if they have got their mathematics and their estimates right, that by the end of this current financial year that because the Consolidated Fund balance is estimated to be £181,000 that that will be the extent of the reserves of the Government of Gibraltar. One cannot know at this stage because one cannot know what has happened to both their revenue and their expenditure in the last 12 months but there could be reserves and presumably are reserves hidden in such things as the European Investment Trust, the Social Assistance Fund - in the unlikely event that there has been a surplus of revenue over its expenditure - the Electricity Fund, the Communications Fund and, indeed, in any of the companies operated and owned by the Gibraltar Investment Fund. The money that there might be in that structure would presumably be recalled to the Government of Gibraltar if the Government reserve position so required it and, therefore, I suppose that that would have to be taken into account, whatever those figures might be if somebody really wanted to assess what the financial disposition and financial security of the Government of Gibraltar actually was. All I say is that I am not today in a position, because I do not have that information, and that is precisely the criticism that I make of the Government's financial structure. That certainly put in front of me what the Estimates put in front of me but to the extent that it does not contain the full picture I do not know what is not in the frame. I only know what is in the frame. If I do not know what is not in the frame I cannot put what is in the frame in the context of the overall picture. On the basis of the figures in the Estimates it would only require a reduction in the monies actually collected by way of revenue during this year - in other words, for the Government to have got their estimate of revenue wrong, to have over-estimated revenue - for the picture set out in the financial statement 1993/94, 1994/95 contained here in this Budget, to be blown completely off course. In the last financial year just finished in fact the revenue figure was underestimated. There was £3.2 million of revenue less than was estimated. Some of that may be accounted for by the fact that during the year some revenue may have been diverted since it was estimated. In 1993/94 we approved estimated revenues of £73.4 million and the actual forecast outturn was £70.189

million. That is just over £3 million down. Extracting from that £3.2 million whatever may be due to the fact that since we approved the Estimates for last year, revenue may have been diverted which is why it is not reflected in the actual forecast outturn of revenue, which I do not know, then that suggests that revenue can fall short of the estimated. If it does fall short of the estimated by more than £181,000 then the Consolidated Fund will have run dry and will be in overdraft. That will spell an end to the official public reserves of the Government of Gibraltar because, of course, the Chief Minister cannot argue for one purpose that monies that he had in special funds are not general public revenues and are not monies of the Government of Gibraltar and then for another purpose argue that, of course, they are because the Government controls them. Either the contents of those funds are public funds for all purposes or they are not public funds for any. Therefore, the position is that when this figure of £181,000 reduces below zero the Government have nil reserves of the constitutional variety. They may have other reserves. To that, Mr Speaker, we must add the fact that an element of the Government's revenue is of uncertain quality. Revenue from tobacco import duty may continue at current levels or may not continue at current levels. If action is taken to reduce the activity that generates the revenue from tobacco import duty, presumably that revenue will be lost to the Social Assistance Fund and some of the things that are presently funded out of the Social Assistance Fund will have, to a greater extent, be funded from the Consolidated Fund or from other sources but other than from the current revenue of the Social Assistance Fund which is import duty. They will have to be replaced or the expenditure discontinued. The extent to which the Government's position is tightening we have to take into account that as employment levels fall as the Chief Minister has himself recognised, that as revenues fall from falling import duty, as they are falling, but more importantly as revenue falls from reduced levels of taxation, the corollary of reduced levels of taxation at least to the extent that they involve Gibraltarians is that the Government have a higher level of expenditure in terms of social benefits. That increases the budgetary pressure on the Government. Ultimately, Mr Speaker, the tightness of the Government's budgetary and financial position reflects on such things as the state of our roads, the state of upkeep of public buildings and public places and the lack of adequate investment in Gibraltar's tourist infrastructure, the lack of investment in Gibraltar's marketing effort which then feeds the cycle of economic lack of success. We believe that Government falls in revenue reflects the failure of their policies to create a positive climate for business and to create new jobs in Gibraltar.

Mr Speaker, I move on to the state of the other half of the local economy; the private sector economy. Now that the effect of the construction industry boom is dropping out of the financial equation, the consequences of Government's failure to deliver success on any of the traditional economic activities is showing more clearly and more dangerously. What we said during our 1992 election campaign is that the building boom is an optical illusion of underlying economic success. Not that the buildings were not going up as if they were not real but imaginary buildings, but that the sight of all these buildings going up might lead some in Gibraltar to believe that it was a sign that the underlying economy was equally healthy. The optical illusion was not that the buildings were not real as we could all see that they were, the optical illusion was that it might be accompanied by success in the underlying and traditional economic activities on which the economy would have to depend after the building boom ended. I believe that subsequent events have shown that this optical illusion is now visible as such to many more people of Gibraltar than it appears to have been visible at the time that we made the warning in the 1992 campaign.

I could, Mr Speaker, but will not, go over, as I did last year, the Government's poor performance in relation to those traditional sectors. Tourism will be dealt with by my hon Colleague Mr Vasquez, suffice it for me to say that it is the same tale of woe and it is now hardly possible to get too excited, at a political level, about this because of course the Minister with responsibility for tourism actually admits that last year that the Government had no policy on tourism and that in effect it had delegated it to others. The shipping registry I believe is capable of delivering a meaningful level of economic activity, is suffering interminable delays and perhaps the Minister for Trade and Industry, when he replies can enlighten us as to what is the current state of play in relation to the shipping registry. When I last heard the problem was in the survey agreement and perhaps the Ministers might like to take the time to explain to us what the current position in relation to that is. But certainly the delays appear to be interminable and Gibraltar is rapidly reaching the position where it will lose market penetration. People will stop thinking of Gibraltar as a port of registry and when we eventually get it back, if we eventually get it back, we will be starting from square one and we shall lose the benefit of the market penetration that has been enjoyed over the last several years. In relation to the finance centre, we all know the story of the position in relation to the United Kingdom and we will be debating that later on. Suffice it to say simply by way of

reporting to the House that from where I sit, the finance centre is at best stagnating and at worst, and this depends on a sector by sector approach, declining. To all of those we have got to add the Government's failure, to date, to attract any manufacturing operation to Gibraltar. Mr Speaker, contrary to what Government Members may have had cause to imply recently on television, I have no difficulty in distinguishing between the cause of the problem and somebody's lack of success at correcting the effects of those problems. Whilst the Chief Minister is certainly not responsible for such of Gibraltar's economic problems as have been caused by the MOD pullout in Gibraltar, he does carry political responsibility for the success or failure of his own political initiatives to correct the effects of that problem whoever is responsible for their cause. That is the distinction that I seek to draw. There are many problems afflicting the private sector in Gibraltar which are of Government's making, which reflect disastrous failure of Government policy over the last six years and which I would now like to run through in no more than list form. I have mentioned tourism. This party in Opposition has been, from the outset, recommending to the Government the view that there is a good deal more potential in the tourist industry than the Government appear, by the application of their own priorities, to have concluded. The result has been that tourism remains what I consider to be one of the greatest tragedies of missed opportunities that Gibraltar has suffered at the hands of the economic policies of this Government. Secondly, there has been since 1988, this apparent inclination on the part of the Government to favour newcoming foreigners into the private sector at the expense of established businesses, especially when it comes to procurement by Government of services or of goods which Government are in a position to influence. One cannot at one and the same time, call for the Government to attract new businesses to Gibraltar to create employment and then at the same time criticise the Government for allowing new businesses in. That would be idiotic and it is not what I seek to do. What I seek to do is to urge the Government to recognise the distinction between those newcoming businesses to Gibraltar which, when they arrive create new jobs and enlarge the size of the cake and those incoming companies that simply share the existing cake amongst all the people that were in eating from the cake before and now them. That kind of foreign investment into Gibraltar does not create new jobs; it jeopardises the jobs of people who already have them in businesses which very often, but not always, have a much longer track record of commitment to Gibraltar than some of the newcomers. [Interruption] For example, CEPESA. At the time that I made this point the first

time, I think it was the year before, I criticised the Government for ignoring in the £3 million project for the conversion of the South Barracks into a school, in the procurement of services for that project all the established local firms of building sector professionals and employing an array of complete newcomers, Mott Macdonald this, Kieller that, and surveyor this and architect that, and engineering that, as if Gibraltar had no indigenous established industry in those sectors. [Interruption] Yes, that was a Government project. They asked for example, there was one, CEPSA is another. It remains to be seen. The answer is very clear to me but I do not see that CEPSA is going to generate a new demand for the retail petrol in Gibraltar. What it is going to do is share the demand that exists now amongst one more dominant operator, located in a dominant position and anyone who did not suspect that that operation would cause untold damage to the existing petrol retailers, to the detriment of the jobs of the people employed in those other operators, have either been negligent in considering the position or has had some other reason for ignoring its consequences.

Then, fourthly, Mr Speaker, it was interesting to hear the Chief Minister speak last night at the cocktail party at which we were both present, hosted by him for the visiting Minister for Industry in the United Kingdom, Mr Sainsbury, that the Government were trying to generate and enterprise culture, as indeed they must if they want the economy to succeed. If they want to generate and enterprise culture they have got to get out of the market place themselves because what the Government have done over the last six years is that they have distorted the market place in many sectors of the private sector in Gibraltar by the presence in that market of Government joint venture companies dealing in everything. The latest that has received prominence in the press, although it existed from before, is WestEx. What business the Government think they have in participating in the business of retailing and distributing of electrical and plumbing equipment is really beggar's belief. Except to divert Government's procurement and Government's purchasing power for electrical and plumbing goods away from the sector as a whole and all the other suppliers of electrical goods. That is what I mean when I say that they distort the market place. The rest of the sector are deprived of the benefits of the business generated by Government demand for those facilities. It used to be the case in computers, my latest information is that the situation in relation to computers may have changed recently and that it is now going back to the market place. Certainly, the Government's position for the procurement of computers is that they have a company in which they have a shareholding and therefore logic

dictates that we deal with that company. That is all very well if all that is being done is managing the Government's financial interests but if what they are doing is managing the economy in order to create an environment in which the private sector can prosper to create jobs and enterprise culture, that is a distorting influence on the market. Another thing that distorts the market is the Government's lack of tendering system for their procurement because it reduces the ability of everybody in a sector to participate openly and fairly for Government business. If the Government Members really wish to sponsor a climate of enterprise culture the first thing that they must do is to get out of the market place in things which are none of Government's business anyway and allow the private sector to compete because it is only by equal, open, fair competition that the enterprise culture can prosper.

Fifthly, Mr Speaker, the Government, both in their manifesto and in utterance since in this House by them, have staked the success or failure of this, their current mandate, on the success of the marketing objective. That is the test which they have announced; is the test by which their success or failure of their policies should be judged. They themselves said to the people of Gibraltar "The first term we build, now we must market and it is the success of that marketing that our success or failure will be judged". We are now around half way through the current term of this Parliament and the Minister responsible for marketing will no doubt have to stand up and say the same things this year as he said when I taunted him with the very same point last year because the visible signs of the success of his external marketing are not obvious to many people in Gibraltar. Yes, we know that there has been much playing of musical chairs internally within Gibraltar, that businesses have been pushed and pulled in and out of New Harbours, that businesses have been accommodated, I think, very helpfully and successfully in the Europa Business Park. Let the Minister not hold that up as the fruit of his marketing efforts. That is not the fruit of his trips to China and his trips to South Africa. The success of his international marketing effort will be measured by the level of non-Government occupants of Europort and by when he succeeds in bringing to Gibraltar a small to medium-sized manufacturing operation which is what this economy needs to absorb some of the labour that may be shed and which cannot be accommodated in the other sectors. That is the success that we are looking for in the Government. It has to be said also that one factor in the Government's failure has been their failure to instil in the international business community and to uphold Gibraltar's international image and reputation. I know that that is a point which they variously either choose

to pretend does not exist or, more dishonestly still, seek to blame on the Opposition. [Interruption] Yes, to the extent that they seek to blame whatever are the effects of this on the fact that I make points such as this. The fact remains that the Government ignore that issue at the peril of the success of their very own marketing effort, and of the finance centre and indeed of other forms of inward investment to Gibraltar.

The eighth point, Mr Speaker, is the Government's failure to secure from the United Kingdom adequate levels of economic support - not aid - in compensation for the effects of MOD reductions since 1988. We are grateful for the recent £4 million of object to funds obtained by the European Community and, indeed, by the £300,000 of the Konver funds. We do not believe, Mr Speaker, that that is the extent of the United Kingdom's responsibility in respect of this matter. We have got to ask the Government Members to explain what steps, if any, they have taken in making these representations to the United Kingdom Government. Have the Government, put clearly and unambiguously to Her Majesty's Government the proposition, as they did at the time of the rundown or the commercialisation of the Dockyard, that subsequent decisions in relation to MOD budget in Gibraltar equally imposes on them the same obligation as they had then to inject into Gibraltar economic assistance in compensation of such things as the effect of MOD pullout in all the various forms that it has taken? The position as we see it, Mr Speaker, is that the United Kingdom can certainly provide technical assistance for small businesses and start-ups. That costs them practically nothing. We believe that the responsibility of the United Kingdom extends beyond that and the obtaining for us of £4 million worth of Community funding over three years. We must not make the mistake of allowing it to be thought that any degree of financial assistance that reaches Gibraltar by sleight of hand of the United Kingdom from the EC is a discharge of the responsibility that the United Kingdom has to compensate and assist Gibraltar as it has done previously for the effects of its own actions here. We believe that in addition to technical assistance it must provide technical assistance and indeed financial inducements to facilitate the task of the Government of Gibraltar in finding a manufacturing operation to come to Gibraltar. Ask of the British Government as they would do in a region of the United Kingdom. It is not just a question of offering technical assistance, the British Government make it their business to root out possible industries and operators and companies that may be interested in relocating or in locating in areas that become economically deprived by virtue of the effects of Ministry of Defence or of the restructuring of other industries. We believe - but

obviously the Government will not if they do not show our enthusiasm for the tourist industry - that the United Kingdom Government ought to make capital contributions to the cost of converting some of our major touristic, historical, heritage assets into viable parts of the tourist industry in Gibraltar. Good work as Sights Management has done hitherto, I do not mean on that scale, I mean the capital cost of converting the northern defences or of converting the King's Bastion or of converting any other of our major, so far unexploited, historical assets into assets usable in connection with a more sophisticated tourist infrastructure. That, I think, coupled with what they should do in relation to attracting a manufacturing operation to Gibraltar, are the two areas in which I believe the United Kingdom should put up capital in support of their obligation to assist Gibraltar. Not to sustain Gibraltar. Not to molly coddle Gibraltar to any degree greater than she would do in relation to one of her own regions. No, to the extent that she would to any other region. We are not asking for preferential treatment. We are not asking for extra special treatment. We are simply saying to the United Kingdom Government, "You have an obligation in Gibraltar in relation to the consequences of your MOD pull out and you must discharge them and the fact that it is in Gibraltar and not in Devonport does not relieve you of that obligation".

Mr Speaker, that list of some of the causes of the poor climate that presently exists in Gibraltar for many of the private sector industries - not all the private sector industries but many - contains, in part, a criticism of Government policy, in part a statement of this party's views as to what ought to be done in order to represent them. The Government can dismiss them as unconstructive criticism if that is what they think they are or they can absorb all or such of the points as they consider have merit and adopt them as a list of issues which are commonly to be found on the lips of not me, because I am not in trade, but those that are in trade in the street.

I think, Mr Speaker, that the jury has come back with its verdict on the success of the Government's economic policy to deliver prosperity in the economy, to deliver employment and to deliver satisfaction to the people of Gibraltar. [Interruption] That might be their dream but as the Chief Minister knows, a defendant's plea is not always, and very often is not the same, as the jury's verdict. The jury's verdict can hardly be read to mean that the Government Members are not guilty because regardless of what signal they had sent as to who else they are prepared to vote for at this moment in time or not, it at least shows a measure of discontent and

dissatisfaction with their handling of their economic and other responsibilities so far. But of course if they wish to interpret that as a signal that the electorate finds them not guilty of economic mismanagement and of lack of success in their economic policies, it suits me right down to the ground that they should continue to act in accordance with that analysis.

Mr Speaker, the Chief Minister, in his address said that if his reading of the statistics on unemployment were such that he did not think that outside the employment industry there was actually any increase in unemployment amongst Gibraltarians, that, if anything, excluding the construction trade, there was a trend towards a gradual increase in employment amongst Gibraltarians. Mr Speaker, that is the Chief Minister's analysis and I sincerely hope that it is true because I share his aspiration of redressing and of focussing the resources of Government and of Government's economic policies in finding employment for the people of Gibraltar first. But I just wonder whether his analysis of the figures can be entirely justified. The fact of the matter is that since December 1992, and we know what the causes and the girationis have been in between then, the number of Gibraltarians under 25, and I cannot believe that very many of those are construction industry sensitive. There is no great mystery of many Gibraltarians let alone under 25, having been employed in the construction industry. Some may have been employed in ancillary industries and in the offices of construction companies..... I give way.

HON CHIEF MINISTER:

I do not want to interrupt the hon Member but he has misunderstood what I was saying. We do not have an analysis of the previous employment of the unemployed. What I was referring to was the numbers employed in the private sector outside the constuction industry. If we look at the size of the private sector, the drop of the size is exclusively the drop in the construction industry. Other than in the construction industry there are more people working. That does not mean that the Gibraltarians that are unemployed may not have come from the retail trade and been replaced by a non-Gibraltarian.

HON P CARUANA:

I am grateful to the Chief Minister for that clarification. We are clear that there is a problem of unemployment amongst Gibraltarians and that particularly in respect of under 25 Gibraltarians, it is a problem that is exacerbated by an annual output of school leavers and people who finish their courses at the College of

Further Education and things of that kind. I think, Mr Speaker, that unfortunately - although I welcome success and that I hope for success for the Government's policies in this area - we are going to see a rise in youth unemployment in Gibraltar if only because the problem is not static in that category. Leaving to one side the MOD or any additional adult or over 25 redundancies that might flow out of the MOD accelerated cuts, in the case of under 25's and more specifically in the case of under 21's, there is the additional annual almost equivalent to an annual defence review of the output of school leavers that go to neither the United Kingdom nor to the College and also the output of the College of Further Education itself as people finish those courses.

Mr Speaker, I would like to move on to two or three small items that flow from the Estimates that are before us. Last year the Chief Minister and I debated at some length what the Principal Auditor meant by his comments to the Principal Auditor's report attached for the accounts of the year ended March 1991. That debate, Mr Speaker, took place on 25 May 1993 and when I said that the Principal Auditor was bemoaning that he had inadequate resources I said "That must mean that he feels that he cannot do his constitutional auditing function properly" the Chief Minister very indignantly said that that was not what he meant and that if that was what he meant he would instruct him to do the audit again etc etc. He signed the report subject to that qualification. I do not intend to rehearse the entire argument but simply to place on the record that in his statement to the accounts to the year ending March 1992, which he signed on 22nd July 1993, that is three months after we debated this issue at the last Budget Session, the Principal Auditor says that although he has received a reply to his representations - this was the fact that he wanted the reappointment of a Higher Executive Officer to his establishment instead of two Executive Officers - his last point in relation to audit staff is "At the end of the day..." - remember this is three months after the Chief Minister's points - "... the position remains in my view less than satisfactory". The Chief Minister may wish to argue with me as to what it is that the Principal Auditor feels is unsatisfactory and what that lack of satisfaction results in and what the consequences are of his lack of satisfaction. The fact remains that here is a man whose constitutional function it is to audit the accounts of the Executive; who says that he considers that the amount of staff and resources available to him to carry out that function is less than satisfactory and I say that I am entitled to assume that he means less than satisfactory to enable him to produce the constitutional product that he is required by the Constitution to produce. Because that is the Principal

Auditor's only function, I presume that he does not mean that his lack of staff is less than satisfactory because he means that he cannot go off on a Saturday afternoon to watch the football or FA cup final on television. What he means is that it is less than satisfactory to discharge the job that the law imposes on him. Mr Speaker, the Chief Minister can again take a different view. I wish to record from this side of the House that we consider that if it is unsatisfactory for this House, as a whole, and for the Government in particular that year in and year out the Principal Auditor should be left in the position where his report on the accounts of the Government contains statements which suggest that at least in his judgement - he is after all the constitutional officer or the person with the constitutional duty - he does not have the means available to him to do the job as he thinks it needs to be done. Of course, it is not really for the Government Members to decide what the constitutional job of the Principal Auditor should be. I note from the establishment figures under Head 1 that the Government show no inclination in the forthcoming year to accede to the Principal Auditor's request to have two HEO's. I am not qualified to judge, Mr Speaker, how, having two HEO's as opposed to one HEO and two Administrative Officers, improves the Principal Auditor's ability to discharge his job. He appears to think that it does and I can only assume that it has something to do with the qualification and calibre of HEOs as opposed to Administrative Officers. It is not for me, nor would I say to the Government Members to make a judgement as to the Principal Auditor's justification for believing that the position is less than satisfactory.

Mr Speaker, there is a matter in which I will admit that my interest is, initially, generated from my professional status as a lawyer but not in the sense of a commercial interest in the sense that that is the sort of work that I do anywhere. It is not that I seek to benefit commercially from it but I think that it is high time that the Government addressed its mind to the resources that it makes available for legal aid in Gibraltar. I do not know, Mr Speaker, whether the Government Members are aware that legal aid in Gibraltar is not available to any person who either enjoys an income of more than £5,000 a year - that figure has recently been increased to let in a few more people - or - this is the one that has not been increased for many, many, many years - has £350 worth of capital. Mr Speaker, one has to be destitute or within a couple of weeks of destitution if one does not have £350 capital. The capital does not mean money in the bank, it means a video or a television in the living room or a second hand car worth £350. Anybody that can point to an asset worth more than £350 is not qualified

to obtain legal aid. Government Members should be aware that the practical effect of this, not the effect intended by them in any political sense, I accept that, is the access to justice. Access to the courts of law to resolve a problem, to resolve a grievance, is denied in effect to all those Gibaltarians except those that can actually afford to incur the risk of losing and having to pay, not just their own legal fees but the opponents as well; that is not meant. I believe, Mr Speaker, that access to courts of law to have their grievances litigated is a fundamental human right of every citizen in a democratic community and that the inability to access the courts of law represents a significant constraint on the freedom of the individual. This is a matter of judgement in the sense where does one put the threshold? In other words, even if I had persuaded the Government Members to the view that £350 was too low because as everybody has more than £350 in effect it excludes everybody from legal aid. Even if the Government Members were persuaded that that was an unfair situation they would still have to decide where do they move the threshold to? Anyone that has less than £10,000? Anybody that has less than £20,000? That is a matter of political judgement for whoever decides; that decision needs to be made. At the moment it is the Government Members and not me. I limit myself to saying that legal aid is really working in Gibraltar only in a certain category of divorce cases where, invariably, the mother is destitute as a result of the matrimonial breakdown and actually can say "I have less than £350 because my husband has taken the car, the video, the television and he has kept everything else". I do believe, Mr Speaker, that there is a social injustice lurking behind the rules of the legal aid system which needs addressing.

Mr Speaker, very briefly and in thirty seconds, item 11 of Head 8 is the revote on the register of electors. I will ask the Government again what I asked them this time last year, when are they going to get on with organising an updated register of electors, given the problems that many hundreds, if not a thousand or more, Gibaltarians faced at the time of voting last year? The timing of the next election is uncertain. The timing of any bye-election is more uncertain still. [Laughter] Well, one hears all sorts of rumours about Government Members one must not assume that the bye-election will necessarily be caused by Opposition Members. One hears plenty of stories about what the views might be of one member of the Government side or other and given that all these things are uncertain Mr Speaker, I think that there is nothing to be gained by delaying the production of the register any longer. Indeed, whilst I am on my feet on this point, the Government Members might wish to consider

whether the most economical proposition is not for the electoral register to be placed on a permanently open basis so that, as happens in the United Kingdom, it is rather like going to the Licensing Department and reistering a car when one becomes eligible to register a car. If one reaches the age of 18 or comes to Gibraltar, one goes along to the Electoral Officer and say "I am now qualified to be on the register, here are my documents, here are my credentials, put me on" - a permanently open register.

Mr Speaker, the penultimate point affects the work of this House. I have to say that I regard this as a Parliamentary Member of this House, a disgrace and an obstacle to the work of this House and in particular to the Opposition Members of it, that it should have taken a whole year to produce Hansard of this debate last year. This is the Hansard of last year's debate in May of the budget session. It has been delivered to the Opposition Members of the House, middle to tail end, if nothing a couple of days ago, of last week. Twelve whole months to produce this little booklet of transcription. It is unacceptable, it demonstrates beyond logical argument to the contrary that the Government Members are guilty of denying to this House adequate financial resources and adequate staffing resources to enable this House to do its secretariat work for the House adequately. Unless the Government Member believe either that they have been out there twiddling their thumbs for the whole of the year - which I do not believe, for one minute - or they alternatively believe that it is adequate and acceptable in this Parliament that it should take 12 months to produce Hansard of what is perhaps the most important debate of this House. It is a severe obstacle to the ability of the Opposition to construct their contributions to this debate if they cannot in that process have recourse to what was said the previous year and to compare what was said the previous year with what has happened in the year since by way of Government remedial action. I would implore Government Members to allocate to the House sufficient financial resources and after all I cannot think that we are talking about much more than the cost of one typist. I note, Mr Speaker, that the forecast outturn on expenditure in this House on Personal Emoluments was £54,500 last year. That it is estimated to be £56,400 this year and that it is clear from that that the Government are not contemplating making available increased numbers of bodies to do this work. Their expenditure on 'Other Charges', in case they were thinking of farming this out, does not reflect any indication that they are going to allocate resources under 'Other Charges' to this purpose. A typist on scale 91 in the employment of the Government of Gibraltar, depending on the number of years service and increments,

raises in cost between £7,112 to £9,974 per annum. I would implore the Government Members to come to the view that a figure between £7,000 and £9,000 for additional typing facilities for this House is a good investment for the improvement of the quality of the democracy and the parliamentary works of this House. [Interruption] Yes, the hon Member may wish to jeer but if Hansard were not important to the work of Parliament and therefore democracy, I cannot imagine that in the House of Commons they would employ the necessary resources to get it typed on the same day. I do not ask for it to be typed on the same day. I would settle for it to take three months or six months rather than 12. I hope to get there in small stages.

Mr Speaker, under Head 9(3) Law Officers, I would ask the Attorney-General or some other Member on his behalf if he does not propose to speak, when we are going to get the much-promised reprinting of the laws of Gibraltar which, if they were unworkable this time last year, they are now even more unworkable. That series of books behind there and behind there is a meaningless place to go to find out what the laws of Gibraltar are.

Mr Speaker, the last point that I wish to touch on is the Police - Head 8 of the Estimates of Expenditure. Under that head I wish to make two points. The first is that I am astonished and disappointed that the Government's expenditure in financing the work of the Police is falling in real terms. In 1992/93 - the hon Members wish to sneer - but let us consider the figures. In 1992/93 the actual expenditure on the Police Department was £5.648 million. In 1993/94, that is the year just ended, it was actually less, it was £5.583 million. In 1994/95 it is estimated that it will be £5.764 milion. Mr Speaker, it follows as a matter of mathematical, self-evident logic that even if we add to those figures the effect of the incidence of inflation, the real expenditure on the Police, even if we take only 1992/93 as against 1994/95, is down. The Opposition are aware that the Police Force considers that it is undermanned, that the shift system is under stress, that the human resources available to the Police are insufficient at a time when the Government Members have recently expressed the political will to increase their workload in the sense of stepping up the fight against drugs. A call which we welcome, but which presumably costs money and costs manpower to the Police. Mr Speaker, on the subject of the Police I want to make one more observation and that is that it appears that the Police Department is subject..... The word "Department" is a misnomer which I should avoid because it is, of course, not a department of Government in the constitutional sense. That the Police Force recruitment policy is subject to the same

Government policy as every Government Department. In other words, that the Police is not free to recruit outside the Government service; that the Police may only recruit to its numbers on the basis of transfers from other Government Departments. That, Mr Speaker, as far as I am concerned, is a scandal. What it basically means is that the Police cannot recruit to their ranks on the basis of vocation or on the basis of training or qualifications or on the basis of the Police Department's wish to recruit this or that person because of an expertise. What it really means is that over a period of time the Police Force will consist of redundant clerks and of redundant labourers and of redundant Port Department employees, and of redundant electricians, and of redundant carpenters from the Government service. I do not believe that that is an adequate criteria by which to recruit to the Police. I have to say to the Government Members that it is tantamount to political interference in the recruitment of Police. Yes, unpalatable as that might be both to say and to hear, the fact of the matter is that the Police is not free to recruit except from inside the Government service from amongst people, presumably, that the Government had decided can be freed or are free from the jobs that they presently do in Government. The Police can only recruit from Government transfers and people can either ask for transfer or be told by the Government, "You are going to have to be transferred because we are restructuring your department and we now only need three people there and not five". I believe, Mr Speaker, that whilst I recognise that the motivation of Government Members is financial and not anything else, I do not say that this is something that is being done in order to alter the chemistry of the Police Force, I accept that it is being done in order to apply the policy of the Government for financial reasons only and in order to free labour costs from the Government payroll. I accept that but this is an area, Mr Speaker, in which I would urge Government Members is not appropriate for that treatment. I think the Police must be free to recruit to their body on the basis of the Police criteria and on the basis of operational criteria and not on the basis of who might become available from Government Departments on a transfer basis.

Mr Speaker, as I indicated before, other Opposition Members will follow me on departmental matters but for the reasons that I said at the outset of my contribution the Opposition will, as it did last year, abstain on the Second Reading of the Appropriation Bill.

The House recessed at 12.55 pm.

The House resumed at 3.15 pm.

HON J C PEREZ:

Mr Speaker, when Madame Speaker from the House of Commons was with us this weekend I seem to recall hearing the Leader of the Opposition lamenting that it would not take long for someone in this House to point out to him that he was being tedious and repetitive. He was of course referring to Madam Speaker's own judgement and rulings in the House of Commons. One only has to read Hansard over the past two years to realise that the Leader of the Opposition was quite right to expect to be criticised for being tedious and repetitive and even boring on some occasions. But he also sounded a very dangerous note this morning. I refer, Mr Speaker, to the incredible suggestion by the hon Member that he intends to press for a type of constitutional reform which will, for example, make the requirement of a public accounts committee mandatory. This because, presumably, the Hon Mr Caruana in his self-righteousness has decided that this is best without regard to the electorate or to his own 20 per cent support or to the views of the majority, as expressed in this House.

Mr Speaker, members of this House since the 1969 Constitution have freely decided to have a public account committee and in 1984 not to have a public accounts committee. It was in fact done away with by the AACR in 1984. The GSLP has been against a public accounts committee since it was in Opposition and later in Government since 1988. The hon Member is suggesting that because he wants a public accounts committee he runs off to the British Government like a spoilt public school brat and insists that this should be mandatory on whoever is elected even if there is no-one prepared to sit on this committee. It is dictatorial, undemocratic and goes against all the principles of the parliamentary democracy which he purports to uphold. The hon Member has the right to include it in his manifesto in 1996 and if he receives the support of the electorate then make the necessary representations, although he would not then have to run to the colonial power because he would then be able to sue his majority. Except that he is clearly never expecting to win that majority and wants to impose his will on us all.

I must also take issue, Mr Speaker, with the view expressed by the hon Member that members of the Government might disagree in having a commercial agreement over the airport with no political strings whatsoever attached. That has been the declared policy of the GSLP on two consecutive general elections. Perhaps where our views part is that what he considers has no political connotations we consider that there is.

Indeed some Opposition Members would still be arguing in favour of the British interpretation to the airport agreement had not the ruling of the European Court of Justice vindicated the view of the Government that sovereignty of the isthmus is compromised by that agreement. The hon Member said that he and his party believe in greater dialogue with Spain if this is going to lower the tension of relations and provide a more neighbourly relation. Except that this is not on offer, Mr Speaker. Brussels is about the issues of sovereignty; about the process of osmosis envisaged by Senor Moran; about concessions; about a process that would gradually but surely put into question our right to our Rock; our birthright. And if the hon Member feels he can participate in that process and not be party to its outcome, so as to "level the temperature down" then he must be living in a dream world all of his own. Worse than the sometimes comic but dangerous world that the Hon Mr Cumming is advocating.

As the Chief Minister said, Mr Speaker, despite these recurring problems and despite the accelerated run down of the Ministry of Defence, the basic foundations of our economy are rock solid. That does not mean that we should not continue to be financially prudent but that against the background of a dire international economic scenario where multinationals much greater than the Gibraltar economy have fallen by the wayside, that we should today be able to feel cautiously optimistic about the next 12 months is an outstanding achievement by any measure except perhaps by the yardstick of the Opposition.

I will now, Mr Speaker, deal with certain details and figures as they concern the departments I represent in this House. The Chief Minister has already explained the impact on the estimates of the departure of the Moroccan workforce from the Government Service. All departments employing industrial workers are affected by this and therefore many of those for which I am responsible, politically, fall in that category. Since the estimates were prepared there have been some other changes which I will mention so as to update Opposition Members and I will also explain some of the reasons for there being an important difference between the figure estimated for this year and the forecast outturn of the year ending. As far as revenue is concerned hon Members will no doubt be happy to note that the updated figure for the forecast outturn on Head 5, Sub-head 56, 'Government Lottery' is £660,000 instead of £485,000. The estimate of £800,000 for 1993/94 was not achieved in great part because we gave up the other £1 million draw envisaged, for reasons which I have explained at question time in this same meeting. The estimate of £641,000 for 1994/95 is based

on projection of existing sales, two £250,000 draws, a third big draw of £500,000 at Christmas and a small percentage of luck on returned tickets. In fact the first £0.25 million draw is to be held in early July.

Mr Speaker, I would now like to draw the attention of hon Members to the Electricity Undertaking - Head 4, where there is a significant increase in both 1993/94 and 1994/95 in Sub-head 3, 'Materials'. The estimate for the year was £105,300. As a result of unforeseen breakdowns which resulted in the rebuilding of turbines on two turbo charges and the replacement of three cylinder heads, that figure increased to £218,300. The estimate for 1994/95 continues high at £198,700 because two of the three engines are due for major overhauls after running 12,000 hours, and the other is due for a minor overhaul scheduled after a run of 6000 hours.

Turning now to the Fire Service, Head 6, hon Members will have noticed that Sub-head 5, Uniforms, is increased this year by £10,000. The reason for this is that in order to comply with a recent EC Directive on fire fighting clothing we need to replace the existing yellow trousers with new over-trousers. The cost of the new ones are six times greater than the old ones. Again under Sub-head 6, 'Fire Fighting Equipment', hon Members will note that an extra £8,000 has had to be provided because the existing breathing apparatus sets also need to be replaced as a result of EC legislation. Here, however, the manufacturer of the existing sets are prepared to buy back the existing ones and therefore the £8,000 represents the balance of the cost. On Sub-head 11, 'Staff Training', the increase forecast is of £13,800. This is due to the beginning of a training scheme run over a five year period aimed at training senior grades recently recruited in post. It also includes the normal annual training of the brigade.

Mr Speaker, as far as Head 10, 'Personnel', is concerned the only significant increase here is an addition of two bodies which were previously part of the old Labour Department and which carry out the same function as before and in addition are used within the Personnel Department. The increases in some sub heads i.e. 'General and Office Expenses etc', have to do with part of the existing social and probation services staff taking over extra accommodation.

We now come to Head 12 'Post Office' where because of the completion of the recently announced deal on philately, most of the £221,000 allocated to the Philatelic Bureau will disappear. I say most, because one of the existing administrative officers will stay in the Post Office thus increasing the complement to 18. The others will either

be moved to other government work or be recruited into the new company. Philatelic Sales under revenue should now be showing an income of some £120,000 which includes income due from 1993/94 but still not paid in, plus the income derived from the company in respect of the agreement entered into. I would like to say here that the Postmaster has informed me that the comments made by the Principal Auditor in the last report have been dealt with administratively. He assures me that cash tills are being balanced daily since last summer and that shortly there will have been introduced a new system for dealing with the sale of insurance stamps.

Mr Speaker, I now come to what has been a pet subject of the Leader of the Opposition for sometime which is the subvention to the Gibraltar Broadcasting Corporation. Notwithstanding the cries from the Opposition Leader that we have been starving the Corporation of cash, as the estimates clearly show, the forecast outturn for 1993/94 was £1 million and the provision for 1994/95 is for another £1 million. The policy of the Government continues to be one of bringing that figure down to £570,000 for the 1995/96 forecast and to keep the Corporation within the £570,000 for the current year. You see Mr Speaker, these two £1 million tranches which the Corporation are getting over and above the around £250,000 of licence fees is expected to wipe the slate clean in respect of the accumulated deficits. If we are to believe what the Opposition say, Mr Speaker, if they were the Government today presenting estimates to this House there is, at least, one revenue raising measure which they would be bringing to this House and that is an increase in TV licences and a mechanism for automatic increases to the subvention which would again come out of public funds. The Government does not agree with that policy, Mr Speaker. The Opposition consistently ask, why is it that Government is taking so long about getting GBC on to the road of financial viability. Perhaps they measure us with success in other areas although it would be hard to admit it. I have said and repeat today that Government is having to deal with this matter on an arms length basis because it is not directly responsible for how GBC is run but is asked every year to pay the bills of the Corporation from taxpayers money. If radio were to be run separately under existing proposals this would give television a chance of evolving into something like a viable proposition. These proposals have developed over a period of six months because the Board of GBC, gave the green light for this to be explored and because the staff presently employed at radio indicated they would be prepared to consider such a proposition. I am still unclear as to the latest position since I have been unavailable and I have not met with the General Manager or the Chairman of the Board but it would seem that the

staff at radio have been adapting their demands from the would be operation continuously and neither the Board nor the management seem to understand or know clearly what their position is. I say this as a point of information for those not in the know, Mr Speaker, although I do understand that the Leader of the Opposition is perhaps better informed than I am. I dare not suggest that he advises some of the staff since I might provoke the accusation of 'tapping his office' for the assumption that one comes to it one takes circumstantial evidence into account. We shall, Mr Speaker, try to ensure that in making use of the subvention the Corporation should have as its priority the provision of cash for the basic salaries of permanent employees. This will hopefully ensure that those whose livelihood is dependent on the Corporation will continue to provide an income to the household. In the meantime we shall continue to strive to find a solution to the financial ills affecting the Corporation.

Mr Speaker, the estimates show that we have been successful in containing public expenditure against very difficult odds. That might not be something which can be exploited politically as a votegetter but it is the prudent and rigid control of public expenditure that dictates the ills of other European economies. How irresponsible it would have been, Mr Speaker, if over the last two years we would have paid heed to the calls of Opposition Members in their attempts to commit us to increasing expenditure in support of this or that fringe group or cause. It is to our credit and to the good of Gibraltar as a whole that we did not fall prey to the political booby traps being placed in our way. The Government, Mr Speaker, have been able to contain public expenditure whilst it has simultaneously guaranteed the jobs of those employed in the public service without in any way diminishing in real substance the services we provide for and on behalf of the public at large. Indeed there have been improvements in very many areas, although the propaganda machine of the Opposition would have us believe the opposite.

Campaigns we have had many in recent months Mr Speaker. The Chief Minister will, I am sure, once again, lecture the Leader of the Opposition on all this information he complains of not getting but which in many cases is staring him in the face. But, of course, Members have demonstrated that they really care not for facts or figures; they complain about not getting information and when they get it they distort it and misrepresent it rather than digest it. They care for the campaign and nothing else. This is not a party preparing an alternative Government or putting forward a series of alternative policies which we may agree or disagree upon

This is a group of individuals that call themselves a political party and whose only visible motivation and objective is to undermine the policies of this Government and the individuals that compose it. The GSLP, Mr Speaker, is still tackling the real issues. The issues that count. Not by offering all things to all men but by hard work and determination. We shall not rest until every Gibraltarian has been given the opportunity to a job. We shall tackle and conquer the unemployment with the same zest and success as we have done in the area of housing where only a few years ago the task was deemed to be impossible by the then Opposition which included the Hon and Gallant Colonel Britto. We shall continue to protect the livelihood of our senior citizens and continue with our strive to attract new businesses into Gibraltar regardless of the scurrilous campaign and innuendos that might be thrown at us outside our borders. Truth, Mr Speaker, is as Sir Winston Churchill once said, incontrovertible. Panic may resent it; ignorance may deride it, malice may distort it; but there it is.

HON M MONTEGRIFFO:

Every year during the budget session I always give an update of the activities within the departments I am responsible for. The medical services is an area, Mr Speaker, that unless one is unfortunate enough to need outpatient care or one happens to be a visitor, the average person in the street is unaware of the many achievements that are occurring on a continuous basis within the health services. Mr Speaker, the Opposition continue trying to discredit us in their usual fashion, irrespective of all the explanations we give in this House and irrespective of everything that we do. Further, Mr Speaker, the press may or may not give publicity to my speech, but at least I know that it will be recorded in Hansard sooner or later and that there will be some people listening to the proceedings.

This year, Mr Speaker, I will commence my contribution with the nursing profession. One of the most significant achievements is related to adaptation courses leading to UKCC registration which have now concluded. A total of eight courses have been held since the inception of the programme on the 1st February 1992, with a total of 51 staff nurses having registered or in the process of being registered with the UKCC. This is a major achievement for our nurses and I would like to express my thanks to Mr David Jones and his team from the Sheffield and North Trent College of Nursing and Midwifery who have given us every assistance. We are also ready to take PREP on board once this programme is introduced by the UKCC on the 1 April 1995. This programme, which is known as post registration education and practice, requires that each

registered nurse keeps a professional portfolio and he or she is able to provide the evidence, if so required, of at least five study days of professional update in a three year registration period, prior to re-registration. All the necessary literature and documentation is already held by our School of Nursing. In conjunction with our colleagues from Sheffield, a visit was arranged for Mrs Ann Peat, Assistant Principal, Midwifery Education. A three day professional updating course in midwifery was arranged with a total of six midwives attending. This course took place between 29 November and 1 December. I informed the House last year on the new control and restraint courses being held locally with our own instructors and that the GHA was looking at the John Mackintosh Hall as the venue for them. I am glad to report that we have acquired a room there and during the year, a total of six refresher courses were held resulting in 69 practitioners within the hospitals having acquired the necessary skills. A visit has been arranged for Mr Bill Thorpe, UK Co-ordinator, to attend for a weeks updated on the 22 May.

As to the School of Nursing, in February of this year we received the visit of Mr Philip Russell Lacey, Manager Computer Communications, who arranged a two day seminar on the usage and operation of the Campus 2000 System. As a result, our educational staff are already making use of an electronic mail system linking them to most, if not all, nursing colleges in the UK. It also gives them the ability to link onto nursing databases all over the United Kingdom. However, the nursing highlight of the year must be the visit, during the month of September, of the UKCC Chief Executive and Registrar, Mr Colin Ralph accompanied by Assistant Registrar, Education Mrs Margaret Wallace. They came to value the adaptation programme. A letter subsequently received from Mrs Wallace said: "We were delighted to see the impact that the adaptation programmes prepared to allow locally registered nurses to register with the UKCC, run with Sheffield and North Trent. This is important both in terms of bringing locally trained nurses up to meet the European Community Directives and also the knock-on effect that the students have had on the qualified staff who now seem to be well versed with the idea of continuing education."

Our health promotion programme together with the Health Education Officer of the Department of the Environment continues to bear fruit. It now includes the excellent work carried out by our preventive clinics, including the new Well Man Clinic, being run from the Health Centre, which I believe has been used by at least one Opposition Member and I am not referring to Mr Cumming. I think I am referring to the Hon Mr Corby. Health promotion

including information on Aids and HIV is still being provided to pupils in our comprehensive schools. Our nurses also carry out routine school inspections throughout the year and periodic and special medical examinations are done on all school entrants to infant and comprehensive schools.

As promised in my budget speech of last year, we introduced the use of HIB vaccine as soon as supplies could be guaranteed. It has become a popular vaccine with mothers and I am pleased to say that the Department has already given nearly 1500 doses of the vaccine since we announced our campaign nine months ago. Hon Members should note that this has nothing to do with the flu vaccine which is caused by a virus and here again I am delighted to say that the number of our elderly folk taking advantage of the service being provided by my department is on the increase.

The Gibraltar Health Authority is now in the process of actively pursuing the possibility of Gibraltar having its own national formulary. We are the only place in Europe without one and we are using the British national formulary as a base. I must say that I am grateful for the work that is being undertaken by our general practitioners together with our Head Pharmacist.

With regard to the medical profession, in the summer of last year an additional full time medical post was created with the appointment of an associate specialist to take over the provision of ear, nose and throat services. Prior to this, the services had been provided from the complement of GPs. We also now have a medical practitioner dedicated exclusively to areas of preventive medicine. There are five such clinics, two of which I have already mentioned, Well Man, two Well Woman, one Child Welfare and a Post Natal Clinic.

Moving now to the Works and Equipment, during this financial year the Gibraltar Health Authority has acquired its most expensive and sophisticated medical equipment to date. The new X-Ray machine, Mr Speaker, which is in essence the very latest X-Ray machine available in the market. The installation of this equipment has necessitated major works to one of the rooms in the Department, so all in all we are talking of approximately £210,000 involving the acquisition of the new X-Ray machine. The total amount of money spent during the financial year on new equipment has been £350,000. The remaining £150,000 has been used to purchase such items as, for example, special beds, pacemakers, the upgrading of existing medical equipment and furniture for various departments. Other medical

supplies and equipment have been purchased under other items and the amount exceeds £725,000.

The latest system available from Nynex - Centrex - is presently being introduced throughout the authority to replace the older systems previously in use. Centrex is a custom-related telecommunications service which provides telephone lines that can be grouped together to appear as extensions irrespective of location.

I already have given this House information on the major refurbishment works relating to maternity. It has taken longer than the other wards because it comprises two floors and the works have been more sophisticated. It is, however, nearing completion. Upper Maternity is ready and is currently being used as an outpatient clinic while works are being carried out in Lower Maternity. A lift is being installed to allow the safe transportation of babies from one floor to the other. The ward has also been extended to include new areas. It is being fitted with new consoles, furniture and medical equipment. The works have reached the figure of £100,000. An area which we have also tackled is the building which houses the out patients department and childrens wards. This building is called KG6. The windows were old and it became imperative to replace them. We now have sliding aluminium-framed windows. The exterior of this part of the building was painted. The costs approximate £40,000. I hope the Leader of the Opposition is recognising the fact, Mr Speaker, that I am giving information on the amounts of money that is being spent by the Health Authority. We have spent this year around £30,000 on our on-going maintenance programme to keep all the refurbished areas of the Department to the same high standards. With the arrival and accommodation of the laser equipment for the Ophthalmology Department, the Audiometrist had to be relocated. This was done by transferring the Speech Therapy Department to the Health Centre. The Audiometry and ENT clinics were built in the area of the speech therapy above Childrens Ward. New furniture was bought for these clinics and we can now boast of two first class clinics and waiting room.

The Pharmacy is also presently undergoing major refurbishment works and it is expected that within a few weeks it will be completed.

So all in all, Mr Speaker, when we need to take into consideration that the Authority, like in all hospitals, is restricted to being able to refurbish only when it can decant patients to another ward, and we have been using private corridor for this purpose. The refurbishment programme has been an excellent one and we cannot forget either the task we found ourselves confronted with in

1988, when each and every area within the Authority was in an appalling state.

Last year, Mr Speaker, the Hon Mr Cumming, and I dare say assume, because he was unable to fault the works, went on to complain that there are no waiting areas within St Bernard's Hospital. He has kept on questioning me and I keep repeating the same answer. In case he repeats himself again I will press the point that priority is being given by the Health Authority to areas directly related to patient care. Once this is completed, Mr Speaker, the Authority will no doubt look at waiting areas within the Hospital. Additionally, apart from the major works in St Bernard's this year other major works have also been carried out simultaneously at the Health Centre.

As I already informed this House the top floor was acquired by the Health Authority and quite a number of changes to the system have been introduced. Even though, the public and the staff there have had to put up with a certain amount of inconvenience during the works, these have been kept to the minimum and the top floor is now operational, although all the works have not yet been completed. A new filing system has been installed and this has meant the updating of over 40,000 files. New procedures for appointment systems have been implemented and all patients are now being initially attended to at the top floor. The seating capacity has therefore been increased substantially and in order to minimise the queues a ticketing system has been introduced which works in conjunction with an electronic panel. The panel displays the names of the doctors and the numbers. The doctors in the middle floor control the panel and each patient moves down to the clinics when his or her corresponding number appears. This ensures that the clinics are decongested at all times. From a situation where there were previously nine GP clinics, there will be 15. Two of these will be emergency ones. There are at present 11 GP's so there is room for expansion in the future. The area for the Child Welfare Clinic has increased twofold and there are also new offices for both the medical and clerical staff. As with any new system, there will be a certain element of time required before it runs smoothly. However, in order to assist the public, the Health Authority has temporarily deployed extra personnel to the Health Centre. The whole of the clerical staff will now be working at the top floor and the extra area has enabled the Department to introduce the new filing system. Over the past year a comprehensive exercise has been carried out in converting and updating patient record files and documents. The new system incorporates a patient database on computer to effectively manage the creation and movement of patient

files and pertinent data to the patient. The computer database was an integral part to our initial efforts to regularise the management of large amounts of information. Once completed a patented colour-coding design for the patient files was adopted and is presently installed. Due to its simplicity records office staff are already benefitting from the many inherent advantages which the design incorporates.

Mr Speaker, all the above works and equipment at the Health Centre have meant a spending to the Authority of about £200,000.

I would like to conclude with the medical services by saying, Mr Speaker, that in the financial year ended 1993/94, the expenditure of the Health Authority was in excess of £18 million. When we compare that when we came into office we started off with £8 million, we have moved exceedingly fast in providing the necessary resources and we will continue to provide them so that we can all be proud of the excellent services we have for a population of 30,000 people.

Looking now to another of my responsibilities, Mr Speaker, Sports; 1993/94 was a busy and fruitful year. Consequent on the agreement to lease a plot of land at the Victoria Stadium its outdoor facilities have been vastly improved. The long triple jump area was repositioned to a more favourable site and a new pole vaulting trough was installed in preparation for the forthcoming Island Games. The Nortex hockey pitch was relocated and a synthetic turf, similar to that of the main pitch, was installed by KWS Sport. This pitch, No. 2, is now being used for hockey, junior football and training purposes and it has greatly increased allocatable times due to its first-class surface. Excellent changing room facilities have also been constructed which include facilities for women and referees. There are now nine changing rooms, a new reception, storage facilities and spectator toilets. New, larger and improved car parking facilities have also been provided for approximately 80 cars. A second pitch with an artificial surface has been an unexpected, but of course, a most welcomed bonus for sports people. The sports associations were very active locally during the last financial year and the Gibraltar Sports Advisory Body allocated £45,000 that is earmarked in the budget for the last financial year. The 1993 Island Games received finance from the Government, the Basketball Promotion Cup for Women in Cyprus, the European Champions and Cup Winners Hockey Tournaments and the Plum D'Or Tournament amongst others. Very recently on behalf of the Government, I handed over an excellent site at the South Barracks, to the Gibraltar Squash Association. I

am pleased to say that they have been successful in building squash facilities with a clubhouse. They have been fund-raising for years in the hope that the right site would be made available to them. I am sure, after seeing the facilities myself, they far exceed even their own expectations. They are first class and to many of its members, both past and present, it must seem like a dream come true. They happen to be the first association that have taken heed of my Government's policy which is to encourage sports people to run their own facilities.

The Hockey Nations European Qualifying Tournament recently staged at the Stadium was a high success and our facilities were highly praised by members of the International and European Hockey Federation who stated that the Victoria Stadium as a hockey venue was amongst the top in Europe. There is a great possibility, as well that Gibraltar will again be chosen to host more international competitions. It is pertinent to note that since we installed the artificial surfaces Gibraltar has been awarded four international hockey tournaments. I must say that the Gibraltar Hockey Association did us proud in what was a very well organised tournament and all the visiting officials and participants left Gibraltar extremely pleased with the outcome. Also, Mr Speaker, more football teams are now prepared to come and play on the Rock and precisely tonight, Mr Speaker, Crystal Palace are playing our local selection and I wish them the best of luck.

During the weekend 20 to 23 May, two other major sporting events will be taking place, one of them again at the Stadium. Eagles Hockey Club will be hosting the European Cup C Division Finals involving teams as far afield as Ukraine, Croatia, Hungary, Finland, Switzerland, Wales and Portugal. Simultaneously, the Gibraltar Amateur Basketball Association will host the FIBA General Assembly of the Standing Conference for Europe where over 150 delegates from 44 nations will be meeting. This is a major important event and we can all be proud that Gibraltar has been chosen as the venue. As this House is now aware, the Spanish Federation has, however, been instructed by their superior Sports Council, not to participate in the Conference. I am told, Mr Speaker, that Spanish attitude towards Gibraltar is incomprehensible to many European and International sporting federations. We are receiving every support from them, and no matter what actions the Spanish Government is taking, we are advancing, more and more, in the area of sport internationally. Gibraltar has already made a name for itself in Europe. Spain appears to be alone in her battles against us, and moreover is the only country in the whole of Europe that does not recognise us as a country in our own right. I am sure that the

Standing Conference will be a success, and it will give us, as with all other sporting events, the golden opportunity of having so many hundreds of people coming to Gibraltar and learning more about us, about our culture and about our strong sense of nationhood and about our aspirations as a people.

Preparations are well under way for the 1995 Island Games, another major sporting event which we will see is the biggest ever event where we will have over 2,000 athletes visiting Gibraltar. Facilities are being upgraded and different sites are being made available to sporting associations. Government facilities have already been inspected by the International Island Games technical delegates and they have been found to be most adequate. The one facility we were lacking was the swimming pool. As hon Members will know, the contracts for the new pool have now been signed and the works will begin shortly. They are expected to be finalised by the early part of 1995, according to the developers. I will not go into the details of the pool as these were given to the House in answer to a question in this Assembly meeting.

After having met several technical problems, and more recently, vandalism, I am pleased to announce that soon the Department of Trade and Industry will have completed the works at Jumpers Bastion, which we intend to hand over to sporting entities for their use as a social and administration centre. There will be facilities for changing, showering, offices and meeting rooms and a social bar area. Mr Speaker, we have now reached a situation in sport that with the introduction of community use, of school facilities together with Hargraves, the three South Barrack multi-use tennis courts and all the new installations and the upgrading of the old ones we are providing approximately 3,400 allocatable hours a month. The usage of all Government sports facilities today exceed 24,000 per month. When we came into Government, Mr Speaker, in 1988 the allocatable hours were 2,000 per month and the usage 20,000. In effect, Mr Speaker, we have nearly doubled the allocatable hours. I am therefore confident that our track record is second to none and difficult to surpass. As the Leader of the Opposition said earlier on, Mr Speaker, the people of Gibraltar are the final judges and if they analyse our performance since 1988 we have done more than we said we were going to do and we are as prepared today, Mr Speaker, as we were in 1988 to continue working as hard, if not harder, in order to secure our future and the future of Gibraltarian generations to come.

We are proud of our homeland and we will fight every inch of the way for Gibraltar to remain precisely that Mr Speaker, our homeland. At this point and finally I would like to express my gratitude to all those members of my staff in all of the Departments who are responsible for implementing Government policies. I am so grateful for their dedication and the enormous support I am receiving from them.

HON J MOSS:

Mr Speaker, in the newfound mood of brevity which has taken the House following the visit of Madam Speaker, I will attempt to be the most successful Member of the House by being the briefest.

Mr Speaker, this is the time of year when this House takes the opportunity to look at what the past twelve months have been and at the same time to look at what is potentially in store for us in the year ahead. In looking at the different governmental responsibilities which I have, I propose to deal first of all with the rather less controversial matters of youth and culture, follow up with education which in Gibraltar normally has had a fairly consensual approach over the last few years at least and then deal with unemployment which I mention instead of employment because the issue obviously is the fact that there is unemployment in Gibraltar. It is, I would say, the greatest social evil in Gibraltar at the moment and it is something which the Government is fully committed to eradicating.

In terms of my responsibilities as far as youth affairs are concerned, I did promise at this time last year that the extension to the Youth Centre building would be in place and I am able to report that this is more or less the case and there will be an official opening during the course of next month. It is a new facility which will obviously enable us to make greater use of the Youth Centre which is already the most popular venue in Gibraltar for young people and which will enable us to continue the hard work that is being put in by people in the Youth Office to ensure that there is somewhere safe and somewhere of good quality for our young people to go to. At the same time, we have continued the programme of youth exchanges, although there has been a noticeable slowing down in the amount of links which we have with our neighbours. The basic reason for this, unfortunately, is that, although we may think that youth welfare and youth opportunities is not a matter which could possibly be controversial, unfortunately our neighbours on the other side of the frontier and the media do not seem to share our opinion which means that these contacts have for the time being put on ice. There

is still plenty of activity being organised by the Youth Office and I have no doubt that the year ahead will be a successful one in this area. I also take this opportunity to remind the House that, as promised, once the work of the Youth Centre has been completed, we will be looking towards providing a new adventure playhut which is very much needed because it is obviously an area which a lot of young people are using and the facilities there are at the moment are not as adequate as we would like them, not as adequate as those of the other youth clubs in Gibraltar.

Unfortunately this year I am not speaking after the Hon Mr Cumming, who saw it fit last year to praise me in my cultural role. This has been a year of quiet consolidation in that area. The activities which we have been carrying out for some time, the various festivals organised under my auspices have been working satisfactorily. They have been growing and there is a general feeling that the cultural offer available today in Gibraltar is reasonable. I do mention in passing though that the conference facilities at the John Mackintosh Hall have been greatly improved and I think that this is very largely responsible for our success in attracting, not just the FIBA Conference to Gibraltar, but also the Conference of the International Vocational Training Organisation which will be happening very shortly after, I think within a fortnight and an area where we do not have any problems with Spain because Spain was kicked out of the organisation two years ago for not paying their membership dues.

In terms of education, this has been an area where I think it is generally accepted in Gibraltar that the education which is on offer is of a very good standard and it is, to an extent, measurable by examination results which continue to improve. This is a good point at which to mention that in terms of Government's estimate I think we shall now see more or less the peak in terms of the number of students who will be availing themselves of the scholarship award scheme and this is as a result of natural progression. When we came in in 1988 and abolished the points system, then obviously that was the stage at which a lot of young people began to take important decisions about what they were going to be doing in later life and we are now seeing the maturing of that process and we are now seeing what I think is the logical number of students which we can expect to go on to further education from Gibraltar. We have not, of course, abandoned the problem of educational infrastructure even though I think that this is a problem which has already, largely, been conquered but because of demographic reasons that I have explained in previous meetings of the House of Assembly, there obviously will

continue to be small problems arising here and there as a result of population shifts. In honour of this fact, for example, we will this year be embarking upon a small extension to St Paul's School which will enable the school to take a four-form intake very comfortably. The House needs to bear in mind that until the construction of the various housing estates on the reclaimed land, the natural intake for St Paul's had gone down to a two-form intake. That problem is being addressed and, hopefully, by the end of the summer the School will be adequately housed. We have also this year been working on an extension to Westside Comprehensive where better library facilities and a better sixth-form common room area are being provided. I am assured that this will also be ready well before the September date of the next academic year. What I think we have seen with education in recent months is the interesting phenomenon that for the first time there is clear movement on the possibility that education can actually be an export industry for Gibraltar. There has been a lot of talk of this in the past and we have lots of interesting ideas which never quite materialise but it will not have escaped the notice of the House that Bournemouth and Poole College are intending to set up shop in Gibraltar and it is quite possible that there will be other institutions that will be focussing on Gibraltar's natural advantages in terms of geographical location and in terms of the fact that we are an English-speaking community and it could well be that we will see more movement in this area in the future which makes sense in that it will also be, to an extent, using the abilities of our people, particularly as a result of the large number of students that have been returning from university and are looking for a meaningful way in which to use the talents which they have acquired in university.

I did also say at this time last year that the Education Department was in contact with the different private nurseries in Gibraltar to try and see if the industry could be regulated with a view to improving the facilities and to making it better for parents who would know exactly what facilities were on offer for their children. It has been a slow process, mainly due to the fact that until these discussions started there was no official association looking after the interests of the different nurseries and playgroups but we are now at the stage that they have put a proposal to us very recently which will be considered by the Education Department and we hope to be in a position to respond to that very soon and to take it up from there.

Very often we hear about the excellence of our profession, about how good Gibraltar's educational system is and it is something, it is an opinion which I share

but this is only possible because of the substantial amount of finance which I injected into education. Per capita the spending on education in Gibraltar is much higher than it is in the United Kingdom and this is a very important reason behind the success of our educational system which we will endeavour to continue improving as much as possible.

I would now like to deal with the employment situation, Mr Speaker, and as I indicated earlier on this is clearly an area where there is more controversy and where there is more discussion. In fact, at this time last year I was telling the House that an employment forum had been created which included members of trade unions, of the Chamber of Commerce and representatives from the Employment and Training Board. Regrettably that particular forum - perhaps I should call it employment forum Mark 1, because we are now to have an employment forum, presumably Mark 2 - was not a success because what is inadmissible for me, Mr Speaker, is that we should be sitting round the table discussing such a serious subject as employment is, picking round a lot of fancy ideas but then not wanting to actually put anything that we are discussing into effect. Quite frankly I think that the idea of having a talk shop for the sake of having a talk shop or because it looks good is a load of nonsense. I have hopes that this new Employment and Training Committee will be able to propose real initiatives, real solutions, to the problem of unemployment. In discussing unemployment one needs to look at the opportunities that are available in Gibraltar today before one starts talking of attracting investment from abroad and creating new industries for employment. What is quite clear is that even if today we were to know that X amount of new companies are moving into Gibraltar and will be creating X number of new jobs, then that is going to be very much a long term, or at least a middle term, proposition. Frankly, in combatting unemployment at the Employment and Training Board all that we can do, at this stage, is look at the vacancies which have been cropping up on the job market and look at what is available today. There is still a lot of mileage in trying to persuade Gibraltarians to take up vacancies in areas which they have traditionally not considered and in areas where they have traditionally not been trained in. I say this because even though last year there was already a perception that things were not as good on the employment market as they had been in the past, last year we still had over 4,000 vacancies being registered at the Employment and Training Board. Although I will accept that some of those vacancies were of a casual or temporary nature, the fact is that enough vacancies were still in theory being created to have eliminated the problem of unemployment totally provided that people were

able and willing to take up those vacancies on the one hand, or that they had the right amount of training, and on the other hand that the employers who were registering these vacancies would have been willing to take on these people. I say that because that is a very, very big "if". It is no secret that unemployment in Gibraltar today does not only affect unqualified people with a lack of skills who have nothing to offer an employer. Quite the contrary, we also have people who are highly skilled. We even have graduates who have come back holding very good degrees even in business subjects, economic, business studies. I am not saying this happens as a general rule but it has happened over the past year and yet these people are finding it extremely difficult, at times, to get employment, not because the vacancies are not there but because they are simply not being considered. When one does not want to consider somebody for employment then there are all sorts of reasons that one can conjure up. One of these reasons, at times, can be lack of experience, at other times it can be the fact that the individual is over-qualified and at times one invents a particular requirement so that one can ensure that there is nobody on the local job market with these qualifications or skills. The fact of the matter remains that whereas in the old days we had a system of apprenticeships which is something that we very often read about in the press when there is a lull from more exciting political activity, the type of individual who would have gone for an apprenticeship in the old days is almost certainly today going off to the United Kingdom to university and studying for a degree or for an HND. This also applies to the type of person who might have got a job in a bank, a building society or an insurance company. What is happening is that these people, because they are now getting better qualifications, are coming back to Gibraltar and they are being told that they will not be employed in junior jobs because they are over-qualified for them, but they will not be employed in more senior jobs because they have not got the experience. That is obviously a ridiculous catch 22 situation which we will be doing our utmost to fight against. We are very conscious, for example, now where we get a request for a particular employer to get to employ one of our vocational cadets that the period for which this vocational cadet is given to the employer should be seen as a training period. In short, if a finished product is wanted then there is a need to consider substantive employment. If one wants to train up somebody then obviously the people who will be available will be people with less qualifications and there will be more work on the part of the employer in terms of training them up for the job that they require. As I was saying earlier on, the fact is that Gibraltarians are now increasingly considering employment in areas where they would perhaps

not have been so receptive before. We have hopes, for example, that a direct result of the Moroccan workforce leaving Government's employment will be that a number of vacancies will be created in this area which should be taken up by Gibraltarians. Across the board where the vacancies arise, we are pushing employers to consider Gibraltarians and I think that this is something that we need to be very, very conscious of at all levels of the community. There are difficulties in trying to protect the situation of the Gibraltarians in the employment market but on the other hand we all know very well that what is inadmissible is for jobs to be created in Gibraltar, for the economy to generate 13,500 jobs and for only 9,000 of those jobs to be taken up by Gibraltarians whilst we have 600 unemployed Gibraltarians. That, for me is unacceptable and the sooner we all realise that the better. By this, what I am saying is that it is all very well to write an editorial in a newspaper or to have an item on the news on television, or to say "I am holier than thou and I want Gibraltarians to be employed in their own home town" but then when there is a vacancy or five vacancies, what happens? A vacancy is slipped in and say "Oh, by the way I have got so and so who is wonderful and has worked in this area for the last 20 years, even though she is only 20, and I would really love to employ her". I think it is about time that, as a community, we do not just say things, but that we do them as well. Of course, the new Employment and Training Committee will also be looking at what is happening with any inward investment that might lead to job creation and this could lead to elements of training or retraining. We already have preparations well in hand, Mr Speaker, as we indicated at various points in the past year to start training in construction with a much stronger impetus than we have had in the past, because even though, as the Chief Minister indicated this morning, the total number of jobs in construction over the past couple of years has been going down substantially, the penetration of Gibraltarians into this particular sector is still very low and we think that there is still a lot of scope for Gibraltarians to take up jobs in this industry. We will also be looking at individual requirements where we perceive that there are job opportunities and I am sure that those hon Members of the Opposition who are in the legal profession will be interested to hear that we will be starting a training for legal secretaries, very shortly. The traditional trades which again resurface from time to time, we will look at as and when there is a requirement and if we feel there is a requirement in any particular area then that requirement will be addressed promptly. I should mention at this point the fact that the Employment and Training Board has recently been computerised to a higher degree than it was before; will enable us to match

the existing skills to the vacancies that are registered to a much higher level than we have been able to do up to now which will mean a quicker response to vacancies which should mean a better chance for Gibraltarians to get employed, if there is goodwill on the part of the employer to take on the Gibraltarians who we send for interview. What has been of great assistance to us in fighting unemployment over the past couple of years has been the provision of funds from the European Social Fund which, as I said last year, we have been using to combat particularly long-term unemployment and we have, Mr Speaker, a further weapon this year and that is the Konver funding which will be of particular use to try and get into jobs those people who have lost their employment as a result of defence cuts and even though we do not know how quickly and how many people will actually be losing their jobs in the Ministry of Defence, we certainly do not have a firm picture of what is going to happen in the next 12 months. What is undoubted is that people are going to lose their jobs and we need to be prepared to look at that situation and we need to be prepared to offer these people, some of whom may have only worked in the Ministry of Defence for many years, we need to find ways and means to ensure that the transition of these people from public service, Minister of Defence employment into the private sector is as smooth as possible. Notwithstanding the difficulties which we face, and precisely because of the measures that I have detailed, we are still cautiously confident that the unemployment situation is not insoluble and that unless there were to be major factors outside our control of which I have no knowledge at the moment, Mr Speaker, it is a situation which can be controlled and unemployment can hopefully be whittled down even over the course of the next 12 months. If there is anything dramatic then we will need to have a rethink but it is also possible that there will be dramatic events which could bring us good news and we must never forget the fact that we are talking of 600 unemployed and that things can change very rapidly if we are actually able to attract new investment. It only needs two or three small to medium sized companies moving to Gibraltar and that, in theory, should be the end of our unemployment problem. Mr Speaker, we are committed to fight unemployment. We are committed to giving it top priority and certainly from a personal point of view I will not rest until we get on top of this problem. It is something that we need to focus upon. We need to direct all our energies against and bearing in mind the fact that we have an intelligent workforce, we have a very highly qualified workforce and we have a workforce that is beginning to see the need to adapt and to be flexible. All we need is some goodwill on the part of those who open up vacancies as well, some serious and meaningful discussion between all parties

concerned and I am sure that even if the economy only generates 13,500 jobs that we could, with all these factors put together, get on top of the unemployment problem. Mr Speaker, I look forward to coming back in 12 months' time and hopefully being able to report that the numbers of unemployed over the next 12 months drop and I hope that the whole House feels the same way I do and shares my views on this. Thank you, Mr Speaker.

HON L H FRANCIS:

Mr Speaker, apparently as opposed to my hon Colleagues, I have no need to try and follow Madam Speaker's recommendations. I always try to brief before than change my ways now. Replying to the Minister on the points of youth and culture to start with, I am glad to hear that finally the long-awaited extension to the Youth Centre is about to be completed. It will certainly be a welcome addition to the facilities there. On the other hand I am saddened to hear about the ceasing of the youth exchanges with our neighbours. Not a good sign but undoubtedly it is more their loss than ours, as long as our youth continue to travel abroad to other destinations, if not to Spain. But undoubtedly it is more their problem than ours.

Turning to Education, which is the largest spending Government Department on books, in the past year we have had a lot of comings and goings in terms of arguments about pupil/teacher ratios and the adequate staffing of our schools and about preserving our standards. We have, for example, St Anne's where a teacher was removed; there was a lot of unrest and unpopularity about that. We maintain that more teachers are needed. The Government maintain that they are not, that there is an adequate number at the moment. Of course, we are aware that there is a recession, that belts have to be tightened and that more teachers may not be financially possible even though they would be academically desirable. I recall the Chief Minister's statement at one time in the House, when talking about the airport that if he had the £10 million or £26 million to spend on an airport, he would rather spend it on education than on the airport. One must assume that if the money was available the teachers would be available as well, and that it is merely political expediency which prevents Government from saying this.

What we can realistically urge the Government to do, and the Minister in particular, is to scrutinise their budget intensely and study it carefully to make sure that the educational value-for-money is maximised, ie. that the least amount possible is spent on ancillary services administration, etc, etc, and the most goes to giving value for money to the students who receive that

education. In the Estimates there are various items of an administrative overhead like the 'General and office Expenses' - £78,000, 'Electricity and Water' - £120,000, 'Telephones' - £36,000, 'Cleaning and Industrial Services' - £871,000, which total well over £1 million and it is here we have to look at getting this value for money; scrimping and saving which might pay for another teacher or two which might alleviate the situation at another school or two. This is something that could certainly be done without increasing the budget, but maximising the budget we already have. In terms of 'Electricity and Water', £120,000 is a lot of money to be spending on electricity and water and there are many ways of saving on that. £36,000 on telephone facilities alone, again, is sky high and has to be saved. I am sure a couple of teachers could be afforded from any savings that could be made. In terms of the 'Cleaning and Industrial' part of the bill, we are not advocating the chucking out of cleaners etc but we are advocating the making of as many savings as possible on materials etc. Another area of concern over the last year to the Opposition and to some of the public at least, has been in the manner in which parental contributions are assessed in terms of the scholarships that are given out on a yearly basis. At present this seems to be done merely and solely on income tax statistics and we keep receiving complaints about apparent injustices in the system where children of people with a certain lifestyle, are receiving full grants whilst people who are finding it hard to make ends meet are having to pay contributions towards the scholarship of their children. These perceived injustices are important. We have advocated in the past and we advocate again that the system of assessments is re-examined to introduce more of a lifestyle assessment in tandem with the income tax information which would show a fuller picture of the parents' background as what the Department of Education is getting at the moment to make sure that these happenings do not happen and that people do not slip through the net while other people are facing the consequences of having to pay for part of their children's scholarships in the UK. This would make the information on which such assessments were made more reliable and more open. There are also problems in the cases of divorced parents which should be looked at. In particular when one parent is supporting the scholarship of their child while the other parent may be earning a higher income and is doing nothing towards supporting that same scholarship with that same child and the first household is having problems, making ends meet, whilst the second household of the other parent is having no problems at all. These are holes in the system and which people can fall through and which should be looked at to make sure that these things do not happen.

In last year's contribution the Minister spoke about, and again today, the setting of educational guidelines for nurseries. Our respective positions on nursery education are well known. We believe in providing more Government nursery education. The Minister believes that there is enough. However, what we are all agreed on is that there should be educational guidelines to these nurseries. There has been a boom in private nurseries recently in Gibraltar and certainly, although they are inspected by the Environmental Health and Fire Departments, they have not been in the past inspected on an educational basis. These guidelines are overdue. I am glad to hear that finally the Department seems to be getting somewhere. What I would urge the Minister to do is to publish these guidelines so that the parents are able to assess themselves if these guidelines are being adhered to and are able to best choose what nursery they want to send their children to. We also spoke last year, and briefly mentioned this year, the redefining of catchment areas but we have heard little about it. If these catchment areas have been redefined they should be published and if they are in the process of being redefined it would be helpful to know when that redefining will be completed. We are glad to hear about the extensions to St Paul's school. We had been expecting it for some time and I am glad it has arrived at last.

On a final note on Education, we would urge that in the rush to achieve ever better academic standards in our schools, we do not lose sight of the social education of our children also within the schools. That in the rush to achieve academic results their upbringing as adults, as citizens, is not left behind and this may sometimes be the case. We would like to see more emphasis on social education because after all not everybody goes away to the UK and not everybody is going to the College of Further Education. Social education is certainly something that should not be forgotten.

Moving on to sport, the question mark still hangs over Gibraltar whether we will be ready within a positive sense for the 1995 Island Games. At the last sitting we heard details about the pool and that it would be ready and we have heard more today but that, of course, is not the only requirement. We are all aware of problems which have been sorted as we know, with the rifle ranges, with the repairing of tennis courts etc. etc. Funds have been promised by the Minister in this House for these associations. We see nothing of this in this year's Estimates. One would think that next year's Estimates would be too close to the date of the Games to be included.

HON MISS M I MONTEGRIFFO:

If the hon Member will give way. I did say, in answer to a question in this House of Assembly, that financial assistance would be forthcoming for the Island Games.

HON L H FRANCIS:

Yes, but what I am saying is that we see no evidence of that within the Estimates.

HON MISS M I MONTEGRIFFO:

Because it happens to be coming out of the budget that the financial assistance that is afforded through the Sports Advisory Body.

HON L H FRANCIS:

I shall take that up later when we reach that item. But there has been a very small increase in that budget from £45,000 to £47,000. Maybe the Minister will explain further when we get through the next stage. That will be welcome news but what would also be welcome is an indication that it will not just be finance for the actual event but for the repairing of any facilities that have to be brought up to a certain standard etc. I know that some associations are worried that their facilities are not of the standard required and that money has to be spent, not just months before but certainly within this financial year. Maybe she can give a better or fuller explanation during the next stage of the proceedings. I know that the Minister knows that nothing short of the wholehearted support of the Government in this case will ensure the success of the Games and I hope that the Minister is giving the support to the Games. One point I would like to bring up is that although a lot of sport is played on the Rock, not everybody in Gibraltar participates in it, obviously. Sport on the Rock tends to be highly organised in terms of associations etc, etc. We would like to see, in the Opposition, maybe a promotion or a drive to promote sport for more leisure and relaxation and for health reasons than just purely on a competitive league association basis. As most sports in Gibraltar tends to be organised in that way we have had in the UK, for example, sports for all campaigns where they urge older people to participate in sports that are adequate for them. Not everybody wants to be involved in leagues. The Minister seems to be indicating that she is getting to be of an advanced age. I am talking of people of more advanced age still. Maybe they do not realise that at their age there are sports that they can do and it benefits their health and consequent

savings in the health budget can be achieved by this route. We have heard about the community use of the facilities and that we have more facilities available these days. What I would like to see is these facilities more available to individuals rather than associations but it is not promoted maybe in the right fashion. We would like to see this promoted together with a natural sport resources which is the water that is around us at the moment which sees precious little use. We see some sailing of an elitist nature in our waters. We would like to see that being more accessible to more people in Gibraltar, more sailing, more wind-surfing, more water sports. We do not use our coastline to its full extent and that might be one way to go other than power boat racing. Again, we have talked in the past about the Europa sportsfield and maybe the North Front sportsfield one day, maybe not in the far too distant future, that will be coming our way. Maybe these could be given over to more individual uses whilst the Victoria Stadium is dedicated to the more competitive, organised sports that we have at present. On a final note on sport, we of course congratulate the GHA on their recent performance and we echo the sentiments of the Minister for how a well organised tournament it was. We also congratulate the Gibraltar Basketball Association for attracting the Conference to Gibraltar and we, of course, wish the local selection the best of luck tonight with Crystal Palace.

Turning to the environment, we have seen more furtherance on this front in the last few years. They have had the conception of the Nature Reserve and must mention here the work of Sights Management who are doing sterling work in making the Nature Reserve what a nature reserve should be and making it attractive not only for our local residents but for the tourists as well. We certainly support the extending of their brief to other areas where they can give their very professional and efficient attention. The same goes to Green Arc and we obviously welcome them being given more responsibility in more areas to take over. We have the Alameda Gardens as well. We have had the improvement in the composition of the reclamation material that is used on the east side. We do not seem to have had the same degree of problem as we did last year and although we hope that again dumping will stop over the summer to allow the use of our beaches unhindered. We have also seen the creation of the Ministry for the Environment which I think now is a year old this month - happy birthday - but what we have not seen really is the impact of that department yet. I realise that it is early days. We would like to see more energy and even aggression in this department to really make it see an impact on the quality of life in Gibraltar. For example, we see no subhead for projects related to the environment in the Estimates other than

£45,000 in the Improvement and Development Fund which, presumably is related to tourist-related sites rather than the environmental projects as such. We realise, of course, there are financial constraints but there are small projects, maybe following the Piazza model where not a huge amount of money is being spent but an improvement can be made. One place that comes to mind is Rosia Bay. No one is asking for the wholehearted redevelopment of it but maybe a tidying up of it and a smoothing of the edges might make it into a very attractive area for the summer for visitors and locals alike. Another area we would like to see chased more vigorously is the European Union Funds. For specific projects, there are many we know in Gibraltar. We can all name it, King's Bastion, North defences, there are funds within the European Union for heritage projects. We would like to see them chased although we know we have had some degree of success in this area but maybe one major project might come off the ground that way. In this connection assistance for the Heritage Trust in the projects that they pursue and where they take a real initiative, would also be welcome. We have seen Parsons Lodge where they have taken an initiative and made a significant impact on what was previously a derelict site. Where they prove themselves I think Government should also contribute as much as possible in terms of manpower and finance directly or indirectly. We have several European Community projects in terms of manpower which are subsidising the employment of the long-term unemployed. Maybe these people could be directed towards environment and heritage projects which can be tourist-related and not towards areas where they conflict with other existing workmen and existing companies doing existing work, as we have had in the past. The finance directly or indirectly either through the European Union or directly from Government or from the Minister with a word in the right ear can achieve marvellous sponsorship some times when worthy projects came up. It just takes a word in the right ear. All we need is the wholehearted backing of the Heritage Trust, when the Heritage Trust actually takes a real initiative and pushes something I think it is worthy of support. Another area in which we would like to see moved on fairly quickly is the overhaul of the listed buildings of Gibraltar. We have few of our buildings listed and the laws that protect them are weak, to say the least. We have had indicated in the past that these would be tightened up, or at least extended and we have seen no signs of that yet. We see no programme, although the Minister might tell us in his contribution, of the implementation of the European Union environmental legislation of which there is a lot and which eventually must be translated into laws in Gibraltar, presumably. We would like to know what programme is in mind for that.

Lastly, our old hobby horse of the planning laws. We would like to see planning laws again introduced that relate to this century. We are at the moment in a lull in developments in Gibraltar. We have had a boom. We are not going to get the same rush of developments again. We have the extra land, the extra offices, all the extra infrastructure. Now, I think is the time when we can safely introduce planning legislation which will not slow up developments or get in the way of Government plans on infrastructure etc. It is the perfect time to do it but planning laws also give our citizens a say, not only in their city, in their own environment but also in their natural environment. We keep shouting about self-determination ourselves to everybody who listens to us yet in this case we are denying that same self-determination to our own people, to determine what their city environment is like and what their natural environment is like. We cannot shout for it on the one hand yet deny it to ourselves on the other. I would like to end on that note. We keep asking for this every year and the Government keep saying no to it every year but now is a good time to do it and to show people that we do believe in self-determination at all levels not just at some levels.

HON R MOR:

Mr Speaker, earlier I heard my hon Colleague Juan Carlos Perez refer to the Leader of the Opposition say how repetitive and tedious he normally is, this reminded me of what I myself said during the election campaign and that was that history would one day say about him that never in the Hansard of the House of Assembly had someone filled up so much space and left it so empty. Mr Speaker, since the last Budget session the title of several Ministers have changed and in my case my title has changed from being Minister for Labour and Social Security to that of Minister for Social Services. This followed, as I explained during my contribution last year, a restructure within the different Ministries intended to reflect the Government's approach to the different priorities in a more appropriate and effective manner. In my case the restructure led to the complete separation of employment and employment-related matters from matters of social security and other social services. You may recall that I explained that the Government feel it is sensible to have grouped together education, training and employment, in order to deal more effectively through the Employment and Training Board with the training needs of the unemployed and the job prospects. For this reason, the Employment and Training Board took over completely all work in connection with employment which was previously being carried out by the Department of Labour and Social Security. This move, Mr

Speaker, has also enabled the Government to look more closely at the social services and these have also undergone some minor restructuring. As has already been mentioned in this House, members of the staff who had previously been involved in the old DLSS with pensions and social assistance now come under the umbrella of the Accountant-General's Department. Social workers and their administrative support as well as staff associated with the children's home and St Bernadette's Occupational Therapy Centre now come under the administration of the Personnel Manager's Department. The Government have continued to keep the restructure under review and intend to carry out any improvements where this is feasible or practicable. In this respect, Mr Speaker, the social workers have been spilt up in two different groups, for the time being, in an endeavour to provide a more specialised and dedicated service to the different social priorities. One of these groups, Mr Speaker, provides probation and child care services. Quite apart from dealing with their normal duties in connection with probation and child care, this group has also been promoting a social awareness campaign in both our comprehensive schools. This has taken the form of giving informative talks in the schools on the unavoidable social cases which arise within our community in different areas. The intention of this is to create an awareness in our young students and encourage their development of social conscience, understanding and whenever possible to also encourage their participation in community projects. It is very gratifying to note, Mr Speaker, that this initiative by this group of social workers has already achieved very positive results. Not only have some very good remarks been passed on to me by Westside Comprehensive School but I am also informed that a group of girl students organised themselves and raised about £100 and are actively participating and dedicating this money to a particular community project. The other group of social workers are dedicated to the elderly. They are dedicated to the handicapped, and other general social needs. In this case the group have been doing sterling work with the elderly in addition to their normal routine. Part of the work of these social workers have always been to identify lonely elderly persons or couples who might need some form of assistance. In most of these cases, Mr Speaker, it is found that such elderly persons either because of poor health or because of lack of mobility have been subjected to live within the immediate constraint of their home environment, without any active participation elsewhere. After consulting with me, the social workers introduced the concept of the day care centre for lonely elderly persons on a trial basis. The social workers were to be supported by a group of volunteers and the idea was to gather all these elderly persons together and provide them with meals,

bathing facilities, hairdressing and promote friendship and enjoyment thereby providing an improvement in the quality of life and something for them to look forward to every week. I need to say, Mr Speaker, that the idea has increased from strength to strength and from having started with providing this facility to only a handful of cases once a week, the situation now is that five such day care centres weekly are currently in operation. I would like to record my appreciation to this section of social workers for their efforts in playing such a useful role in support of our elderly citizens. I think it is also appropriate for us to highlight the role of the wonderful group of volunteers who so very kindly give up some of their free time and put in tremendous effort to ensure that the day centre for the elderly is successful. These volunteers cook for the elderly, wash their clothes, sing, dance for them and whenever possible they try to get these elderly participating in all the activities that they themselves create. It is to the credit of Gibraltar that there should be such magnificent people who seek no other reward other than the smiling faces and the enjoyment of some lonely elderly citizens. I would further wish to record my appreciation, Mr Speaker, to the Rotary Club of Gibraltar who very kindly donated a bus during the year for the exclusive use of the day care centre. This has enabled the service provided to be further enhanced with the facilities for outings and day excursions. A social worker from this group is exclusively engaged in dealing with matters in connection with the handicapped and disabled. In this respect she is in regular contact with the professionals in the field, including St Martin's School, Mr Giraldi Home and St Bernadette's Occupational Therapy Centre. As the House is aware, Mr Speaker, the ground floor of the Dr Giraldi Centre was especially constructed to reaccommodate St Bernadette's in order that better facilities could be offered to the trainees at the centre. Interior work is currently taking place and it is expected that St Bernadette's may be moving to their new premises in the very near future. As regards the running of the Dr Giraldi Home, the Government's position was made clear during Question Time when I answered a question from the Hon Mr Corby. It is the Government's view that the day-to-day running of the Dr Giraldi Home has to be seen in the light of an organisation and management structure set up for this purpose and in this context the Government is attempting to encourage all sides to work together in a spirit of cooperation and understanding with the common aim of acting in the best interests of those who will be making use of the Home. At the end of the day, Mr Speaker, the whole purpose of the exercise is the benefit of the residents under care and not to necessarily satisfy all the non-residents' aspirations. The Government is hopeful that the common

aim of upholding the interests of these mentally and physically handicapped will prevail over every other consideration and I am sure the Hon Mr Corby will join me in that expectation.

Mr Speaker, on the matter of pensions which is another responsibility under my Ministry, I am afraid that I am unable to comment. This is because, as you know, the legal chambers of Triay and Triay are taking the Government of Gibraltar to court over the dissolution of the Social Insurance Pension Fund. As you are also aware, Mr Speaker, there are two hon Members sitting in this House who are also partners in this legal firm. This means that contrary to whatever the Opposition might say as regards judging, it is the Government which are effectively being judged in this case. I would, however, Mr Speaker, draw your attention as a matter of interest to the seemingly double standards which the Leader of the Opposition uses when upholding his principles. When I brought the legislation to provide enabling powers to dissolve the Social Insurance Pensions Fund, the Leader of the Opposition wholeheartedly supported the Government's action. He could, however, not bring himself to vote in favour of the Bill because it was allowing the Government to introduce measures through regulations and in accordance with this principle, this technicality was not acceptable to him so he abstained. It seems rather strange to me, Mr Speaker, that a man who upholds and values his principles so highly should sit in this House whilst at the same time receive economic gain from his firm to a legal case against the whole of Gibraltar, challenging the introduction of legislation, the aims of which he himself had previously supported very strongly in this House. It seems to me, Mr Speaker, that the hon Member's concept of upholding principles in a dignified manner seems to me very much as really indeed an optical illusion.

The House recessed at 5.00 pm.

The House resumed at 5.20 pm.

HON H CORBY:

Mr Speaker, in my contribution to the House, I would like to go back to September 1993 to an event that not only made front page of the Chronicle and the television news but shocked the whole of Gibraltar, and reflected the inadequacy of the laws in the protection of the infant and adult handicapped of our society. I am, of course, referring to the ordeal suffered by a local family when a helpless, handicapped adult was discovered by a neighbour alone in a flat, beside her father's body in a state of shock and hunger, after five days had elapsed. This, Mr

Speaker, gives a vivid picture of how the less fortunate members of our community are unprotected by law and where no form of monitoring is undertaken in a situation where most of the adult handicapped are being nursed and cared for by elderly parents. It is high time that a system is devised whereby, through the social services, monitoring of the handicapped is undertaken on a regular basis so that a repetition of this case does not occur. In answer to my Question 30 of 1994, the Minister for Social Services stated "The Government will shortly be setting up the appropriate consultative machinery to deal with such regulations in consultation with the professionals in the field. At this point in time, priority is being concentrated in the light of recent developments in connection with home care facilities for the mentally and physically disabled". Mr Speaker, this statement comes eight months after this tragedy happened and still no mechanism has been put in place in the interim to monitor the situation. Also, no reference has been made in this statement with regard to infants who have a need for special care before they attend school. In this respect, Mr Speaker, this statement leaves much to be desired and I hope that the Government Members, as a matter of urgency, will bring to this House legislation that will once and for all protect the lives and well being of the less fortunate members of our community. A need also for more realistic allowances especially for adult handicapped should also be given more priority and brought into line with those of the UK and other European countries. The present allowance is totally inadequate to maintain the financial needs of the adult handicapped.

Turning to the question of housing, Mr Speaker, we are very concerned at the Government's policy to sacrifice the availability of rented accommodation at the hope of raising money. For example the charging of key money on MOD properties and Gib 5; a practice prohibited by law for local landlords and recently forcing people in the housing waiting list to buy at this new estate. The issues which concern us in the Opposition are the possibility of burdening tenants with maintenance charges and mortgage commitments. The reason for this occurrence is that Government have embarked on a campaign to convert Gibraltar into a property purchasing community which is translated into nothing more than an indebted society. Let me remind the Government Members of what the GSLP stated in the 1992 election manifesto: "In the next four years we will build however many units which are required to meet the needs of those of low income who cannot afford to buy." Mr Speaker, again in answer to my question 86/94(4) when asked how many people on the housing waiting list had acquired a flat at Gib 5 on purely rental basis the answer was, "none". So where, Mr Speaker, are those units referred to in the manifesto?

The answer might be that in the quest for funds the Government is now relinquishing their housing obligations by passing them on to the people of Gibraltar who are then landed with the financial burden that home ownership entails - at the time when job security is a thing of the past and unemployment the order of the day. We have heard certain statements which state that the housing problem has now been broken. I challenge this statement, Mr Speaker. There are still quite a number of Gibraltarians living in unacceptable sub-standard conditions, which needs to be addressed. The housing problem in Gibraltar is an on going one and Government like all Governments before it must provide the necessary subsidised rental accommodation and not impose home ownership at any cost.

In conclusion, I would like to say that this community has always prided itself on being close-knit and has always found strength in being so united, especially during the years of the closed frontier. However, there is now a new threat to our community which is affecting the very fabric of our society and is already eroding family values that we hold so dear. That threat has manifested itself in the shape of the fast launches which the Chief Minister has now targetted, recognising that the percentage of them do trade in the smuggling of drugs. The Chief Minister recently proclaimed that family values will be the bastion of the resistance against the threat of drug activities. We urge the Government Members to wage war on drugs with actions and not words. The fast launch trade is already making serious inroads in the family structures. Our youngsters are lured into this trade by the promise of easy money which they spend on expensive cars etc. This, of course, has a negative effect on those who are pursuing their education and work as a disincentive especially in the present climate of low job opportunities. Given the circumstances, Mr Speaker, many fall victim to the more unscrupulous people who sit back and reap the benefits but show little regard for the lives of the youngsters and society as a whole. The Government have a moral responsibility to take a serious lead to rectify the situation which already threatens family values. Government must take a more positive action and stiffen the grip on the fast launch activities and make every attempt to provide better employment prospects for our Gibraltar youth. We have already made public our suggestions for decisive action and hope that every measure will be taken to curb the fast launch activity and in so doing prevent further damage to our family values and our society, Mr Speaker, which we hold so dear.

HON J L BALDACHINO:

Mr Speaker, I would like to begin my contribution this year as a follow up to how I ended my budget speech last year. In order to remind hon Members I will quote what I said, "I would like to finish with an advice for the Hon Mr P 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." It is in Hansard, Mr Speaker. What I did not predict after all, was that the GSD were also going to kick him out. Yet again, I will make another prediction. Mr Cumming will be kicked out of this House in the next general election by the people of Gibraltar, and the reason will be due to the fact that he has not got the guts to go to a bye-election now otherwise he could get kicked out.

It is not that I am trying to inhibit the hon Member's freedom of speech. It is that I am now going to use the right that I have on freedom of speech and as far as I am concerned, Mr Speaker, the hon member has not got a mandate to be in this House. He has betrayed the people of Gibraltar. I will even go as far as telling him that I think that he has committed treason and the reason for that is that there are people on the other side..... [Interruption] No, Mr Speaker, I am not going to give way.

MR SPEAKER:

Order, Order. It is on a point of order, you have to give way.

HON P CUMMING:

Mr Speaker, the Minister is insulting me. Surely Mr Speaker will defend me from such insults.

MR SPEAKER:

You tell me where your objection lies.

HON P CUMMING:

He is making personal comments about me.

MR SPEAKER:

On what? What does the hon Member exactly object to?

HON P CUMMING:

Treason! I object, Mr Speaker, to be called a traitor.

MR SPEAKER:

I think you ought to withdraw that. I do not think it is a fair comment.

HON J L BALDACHINO:

Mr Speaker, I withdraw that. I think that the hon Member was on the verge of committing treason. The reason for that is because there are people on the other side of the frontier who are using what the hon Member is saying publicly and some of them now believe, especially the Partido Popular, that what Franco was saying is now actually happening; and that is that the fruit is now ripening and that is incorrect. The only way that it can be proven is if the hon Member has the guts to go to a bye-election and then let us see if the support that he says that he has he really has. Who are the unknown faces behind the hon Member because the hon Member in an interview, when asked if he would leave the House, said he had to consult and ask for advice? Advice from whom? Who are the people who have not come up and say that they support the hon Member? Whose advice is the hon Member taking? Maybe he can answer when it is his turn to answer. Of course, Mr Speaker, the GSD is not out of blame either because the GSD have not pronounced themselves whether should Mr Cumming be in this House or not. They have sat on the fence and there are many people outside this House who perceive that there are some hon Members from the Opposition who really think like Mr Cumming. The only thing is that Mr Cumming thought aloud.

HON H CORBY:

Will the Minister give way? Let me say to the Minister that we in the Opposition are in the seat of the Gibraltar Government in as far as concessions and the airport agreement is concerned. I am as much a Gibraltarian as any of the hon Members on the Government benches and I resent the statement by the Minister that we might have the same opinion. I can say that none of the hon Members on my right and my party are pro-Spanish but very much on the Gibraltarian way of life and on securing the continuance of that Gibraltarian life.

HON J L BALDACHINO:

I accept that the hon Member might not be one of those "some Members". What I said is that I am not saying it. There are people outside this House who really believe it because it appears that there is a pact between the GSD and the Hon Mr Cumming, because they do not attack each other even though the GSD defend that their policies are different to what Mr Cumming is now preaching. That is the difference.

Let me now go into what is actually my responsibility in my Ministry Mr Speaker. First of all, I was asked in Question 85 of this meeting of the House by the Hon Mr Corby what had been the annual maintenance costs to the Government during each of the last six years in respect of each of the following Housing estates: Alameda, Varyl Begg, Laguna, Glacis, Moorish Castle and Queensway Prefabs. Even though I took the question at the time to mean minor maintenance, which is something that is very difficult for the Department to identify separately, I am now in a position after he explained to me outside the meeting of the House, that what he meant was major refurbishment works. To provide him with the figures for the whole of the six years, of what we have spent in each of the above estates - Alameda Estate £271,768.13; Varyl Begg £479,352.27; Laguna £155,312.07; Glacis £205,671.62; Moorish Castle £162,572.02 and the Queensway Prefabs £40,000. I give way.

HON H CORBY:

Mr Speaker, I thank the Minister for giving me the information. In the question that I asked I raised it as maintenance and I was corrected by the Minister to say that it was refurbishment and not maintenance. Thank you very much.

HON J L BALDACHINO:

Mr Speaker, these figures obviously are in addition to other major refurbishment works carried out in other estates and to the recurrent maintenance cost. I am pleased to announce, that my Department is now functioning fully as the Ministry of Buildings and Works and its responsibilities are the following: construction of Government housing; granting of tenancies after the allocation of the Housing Allocation Committee; maintenance of all Government-rented accommodation which, today, stands in the region of 5,000. I will now comment on the comments that Mr Corby made. Mr Speaker, I am sure that my hon Colleague Mr Pilcher will also comment but maybe if I can refresh the hon Member's memory it is

very easy to criticise the Government at this stage without comparing what was happening before. The Government, when we came into office, Mr Speaker, had 2,126 families in the housing waiting list. If the Government had not introduced the Home Ownership Scheme and the 50/50 Option, today it could have been a much worse position than it really is. The hon Member said there are people who cannot afford to buy and I think that should be quantified or clarified. Who are they and why? Who should be the people who once should consider they cannot afford to buy? We just cannot go by the waiting list and say none of these people can afford to buy. There are certain categories of people who cannot afford to buy and I would agree with the hon Member that those are the ones that we should really find a solution to. Unfortunately, living in the real world that we are living now, the majority of those people will be in my Colleague's housing waiting list now and therefore those are the people that we should now go and try to help in housing. I would not like to go into those details because I am sure my hon Colleague, who has the responsibility, will answer that.

Mr Speaker, my Department will be carrying out major works which will be funded from the Improvement and Development Fund. In other words, we will continue to do that. We have also put in place an accounting system that allows the Department to monitor the running cost of projects more effectively which it was something that the Principal Auditor was saying in his Report. My Department is, therefore, composed of the following: administration, taking care of collection of rents, granting of tenancies and payments to the labour force; maintenance, providing all works including construction; and lastly, and not the least, the warden structure which is throughout all Government estates. The Buildings and Works Department, Mr Speaker, is now the largest Government Department in relation to the industrial workforce as it consists of 285 and salaried staff number 56. It is well equipped to carry out construction of houses, due to having the sufficient workers with the professional skills for this task. As a matter of fact, Mr Speaker, I believe that today they are the only workforce capable of carrying out these works without having to rely on foreign construction companies. I would also like to record my appreciation to my workforce, industrials and non-industrials for their co-operation and for their efficiency because even though the Department lost in the region of 100 Moroccan workers, who left the service after taking up the offer of early retirement, it has been possible to continue to maintain the same standards as before. We have commenced a programme of constructing four two-RKBs for the elderly and they are now in process of being completed at St

John's Court. Additionally, the Department provides an emergency service available from 5pm until midnight and after midnight a Depot Writer is on duty until 8am, together with a PTO who is on call. Buildings and Works is now actively trying to recover rents, which is something that the Principal Auditor also brought to our notice, from persistent debtors of Government houses and there may be instances where it is, if the debtor is someone who is well off, may find himself in court and the Department will investigate legal proceedings to repossess. Mr Speaker, we will continue to carry out major refurbishments in Government estates and, as I said before, looking at areas where my workforce can be utilised to its fullest capacity in the construction of house and particularly to help those who really cannot afford to buy in constructing houses for the elderly of our society. Thank you very much.

HON P CUMMING:

Mr Speaker, this is the budget session and it would be nice if all the books of the Government were opened to us and we could make a real objective assessment of the Government's finances. This is not possible because the Government will not hold itself accountable and so we try to debate the state of the nation and the state of the finances roughly on the themes that we can scratch out in the streets. Mr Speaker, we were honoured at the weekend with the visit of Betty Boothroyd and when we were being introduced in the ante-Chamber she had a special word for everybody and I was standing beside the Financial and Development Secretary and I heard her being introduced to him and when she said "You are the Financial and Development Secretary. I would not like to have your job. How on earth do you make the books balance?". I did not hear his reply. It was a sort of embarrassed mumble but I was amusing myself thinking that perhaps in a world where everybody could say whatever they liked and whatever they believed in, he might have said "Look, I get a little help from tobacco smuggling to balance the books". I do not know whether that thought crossed his head but it crossed mine, I thought it would have been rather funny if he had said that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the hon Member would give way. I do not normally take part in the proceedings of the House as all hon Members will know, but what Madam Speaker said to me was "Oh, I would not like your job" and he obviously did not hear me say "No, I would not like it either".

HON P CUMMING:

Entering the territory, Mr Speaker, of the tobacco smuggling is a very unpleasant exercise. It reminds me, in fact, of the time long back when I was a very junior nurse in the old KGV mental hospital where one day the sluice room and the toilets - it was not the Hon Mari Montegriffo's fault this time - but all the plumbing decided to regurgitate and everything that went in the last few days decided to come out. It was a nightmare. Nonetheless I would prefer to have the job of cleaning up that mess than cleaning up the mess associated with tobacco smuggling in Gibraltar. I think we can roughly say that Government revenues from tobacco smuggling is as much as £16 million a year and that £24 million enters the economy from smugglers spending their profits in Gibraltar. The truth of the matter is, Mr Speaker, that our economy has come to rely on this income and we are therefore in a difficult position; very hard to get out. If we could put the economy into a triangle and say one of the sides of this triangle has been the money that the Government has borrowed to stimulate the economy, the effects of that money is now running out. On another side of this triangle we could put all the rest of the economic activities of this community and most of them are fragile and vulnerable and tobacco smuggling, for the moment, has remained a reliable source of income. We could just choose to ignore this and put our heads in the sand like ostriches and just pretend that this is not happening. On the other hand we could try some reality shock and try and make some evaluation of this because this is the aspect that conditions how the rest of Europe sees us. They see us as a band of smugglers. They see us as a sort of outlaw community and we are going to become the outcasts of Europe. The tobacco smuggling does harm to Gibraltar. It may do good to the economy but to the social fabric of our society it does harm. It tempts our sons into this activity because it is exciting, because it is profitable and if I were 20 I would find it most attractive. I have nothing against the young smugglers of tobacco because a lot of them are my friends but I would like to send them a message from this House. They should look after the income they get from it and invest it very wisely. They should buy a house or a legitimate business because sooner rather than later this will have to come to an end. The tensions that it is causing are building up on both sides. I was talking to a man from La Linea who was telling me that his son was 15 years old and that he was very anxious for him to go to university and he was saying that his problem is that he is going into a crowd of young men that are working in the tobacco and I am afraid that he is going to be tempted in and not bother like so many

others. This could have been a father from Gibraltar saying word for word the same idea because our sons are at risk from this trade and the mothers of those sons also suffer a great deal from this aspect of our economy. There was a demonstration in La Linea some months ago in which there was somebody with a placard with a sentiment on it which I am sure the Chief Minister would approve. It said "Winston si, drogás no" and I thought that was rather funny. It is a very serious underlying matter, but the problem has been that it is easy to turn a blind eye to tobacco because we could say the Spaniards are seizing our economy and making it so difficult for us to survive and therefore if we can have this income at their expense, so be it. Of course, once the malice of the drug smuggling becomes intermingled with this tobacco smuggling then the matter starts to take on a different aspect. The Chief Minister recently said that he was gunning for those launches that carry drugs and I am sure he would do it if he could but the problem is that logistically it is impossible to stop the launches that take drugs and allow the ones that take tobacco. It is just not possible to distinguish between the two. Logistically, this is simply not possible.

I do not know whether anybody has been recently to La Atunara and turned up through the Zabal and there on the corner there is a huge new petrol station which has been built for some time now but it has not been put into use and further along there is another new one and one wonders what on earth they want so many petrol stations for when they are hardly used because everybody comes here for petrol because it saves them so much money. I hear that it has been mooted in La Linea that they are trying to achieve a 'zona franca' status for La Linea. That is to say that they will sell their petrol and their tobacco tax-free. This, for us, will be a total disaster and pull the rug right under our feet and shatter our economy in one go. I hope that they are not successful in this because we need time for readjustment but this is another writing on the wall to warn us about the problems of our future.

I have been saying, Mr Speaker, recently that the GSLP policies of nationalism and isolationism will lead Gibraltar to poverty and this statement has had a very mixed reaction in the community. But those who are unemployed have very quickly identified themselves with this sentiment and many of the people who have called me, most enthusiastically on this issue, have actually said "You are saying we are going to be poor. I am poor already because having lost my job I am desperate to find a new one and I cannot and I am living on supplementary benefits" which is a wide variety of different figures that one hears. Sometimes as low as £12 or £15 a week

and this is poverty. Poverty has arrived in Gibraltar. I know it is not overwhelming in its numbers yet but the problem is that the rest of us have become accustomed to parity with UK, in our salaries, in our standards of living and unfortunately we are not in a position to offer to the unemployed parity of conditions with UK. I am sure the Chief Minister if able to put his hand in his pocket and give it, he would do it. I am not saying it is his fault, but it is a fact of the matter. These unemployed do not have parity of conditions with UK. They are living on a very small welfare benefit and poverty has arrived for them already. There are others who think that poverty is something that happens elsewhere and not here and who accuse me of being an appeaser and all this, and the personal status of these people who take this line is usually comfortable because they are not personally involved in this matter. Economic prosperity in our community is vital to all of us and I know that the Government are pursuing job creation and pursuing investment in Gibraltar with great energy and hard work but of course the circumstances are all against them. We have to come to face the reality that Spain has been mounting, for years now, an economic blockade against Gibraltar and that it is being effective and of course the Government are trying to lift up the economy with their hands tied behind their back. I know that they are putting energy and effort and everything..... I do not know if they have gone yet to Iraq to look for investments, for example. If there was any possibility I am sure they would go but the environment in which we are trying to make economic prosperity simply seems to me we are not going to make headway. I know that the Chief Minister has said that the coming year we are going to hold our own and I accept that from him and I know that the situation is not cataclysmic now and I know that if I had waited three, four, five years to speak the way that I have done, it would have gone down much easier. There would have been more fertile ground but I say that everybody elected to this House has a responsibility for the welfare of this community and must spend his grey matter and his time on looking ahead and perfecting our future. Therefore, it is not good enough to wait and say, "Well, when we fall in the pit then we will say 'now let us try and get up'". No, we have got to warn, "Look, there is a pit ahead of us, it may not be immediately ahead of us but certainly two, three, four years down the line, we are going to be in very serious difficulties and we must start to plan now a different strategem for our future". It is simply that, the economy has been compared by Mrs Thatcher to a cake and everybody wants the bigger slice and the cake is getting smaller and smaller and this is bringing tensions and will bring greater tensions to our community. We must make the cake bigger and bigger so that there is a

bigger slice for everybody. I have already mentioned the difficulties of people on the dole, they need more supplementary benefits and we are having great difficulties to find that for them.

The Doctor Giraldi Home has been set up, financed on a shoe-string, not entitled to the financial back-up that prevails in, for example, the hospital, the health services, simply because we cannot afford it. There is Mount Alvernia eating into its capital. We need more teachers, we need more policemen and the time is going to come when we are going to have to say to them, "Look, we want more teachers, in fact you are going to have to have less". People will come on saying, "We want more salary" and we will have to tell them, "Look, you must have less not more". This is why, Mr Speaker, I want to emphasise that this is a dangerous business that the Chief Minister said I am engaged in but this is a very serious matter and I take very, very seriously the future of our people and the need for prosperity and I would wish that we would have a Government in much better circumstances, with the energy and the decision and determination of this Government but in circumstances where it is possible for them to bring off what they are trying to bring off.

Mr Speaker, I would just like to say a few words about sovereignty. Sovereignty is not an absolute concept. I wanted to go into the nuances of this. Shall we say, 50, 60, 70 years ago in Gibraltar the Union Jack over Gibraltar expressed fully the sovereignty of the Rock. It flew everywhere over the Rock and it expressed completely the sovereignty of this Rock. Now, on its own it does not express full sovereignty. We have our own flag up beside it. Why? Her Majesty the Queen exercises her sovereignty over Gibraltar on domestic matters through this House and therefore we have our own flag of which we are justly proud and to express our full sovereignty we have to put our own flag up beside the Union Jack. It does not end there, now we need a third flag. If we go to the frontier there are three flags and the European Union flag now occupies part of that sovereignty of Gibraltar, in an increasingly important part. Now, it so happens Mr Speaker, that there are 13 members of the European Council of Ministers and there is one British one and there is one Spanish one, the rest we can forget because they have no interest and no desire to become involved in our problem whatsoever. The part of our sovereignty exercised from Europe is exercised from two sources, one from London and the other from Madrid. In other words, Madrid is already exercising an element of sovereignty over Gibraltar whether we like it or not. That is why they are able to mount such an effective economic blockade against us and this is why they are having so much hand in the things that are happening to

us. Mr Speaker, what I am saying I know is not a popular concept in Gibraltar. I share with the Chief Minister his views when he said in the headlines of the paper the other day, "I am not in the business of popularity because certainly I did not expect my ideas to be received with a standing ovation." All of us have come from different professional backgrounds and to many their professional backgrounds have helped them greatly in getting political insight into how politics should be carried out.

So why should I not use my own professional background to have a greater insight into politics in Gibraltar. Of course, in teaching of nursing and in the practice of nursing there is a theme called "reality orientation" where we have, for example, the mental patient who says he is Napoleon and we do not humour him, it is a very bad nursing practice to say "Yes, you are Napoleon." No, say "You are Joe Bloggs and you live down the road" and even if he gets angry he has got to be brought down to reality. Now I know the Government is familiar with the concept of reality orientation because in the job market they are constantly trying to exercise a certain reality orientation and I praise them for it. They say, for example, that not all of us can have white collar jobs. We have got to have blue collar jobs too and we have got to start producing our own Gibraltarian waiters and if there is a ditch to be dug it has to be dug by Gibraltarians and the Government have been doing reality orientation in that respect and I think that is good. But there are other areas where there is no insight into reality. I have compared this Government to a Yorkshire terrier who is a very tiny dog with megalomania, who thinks that he is big and strong and launches into an attack on an alsatian, thinking that he has got an equal chance like the alsatian of winning. In this case it is two alsatians that we are trying to struggle with at the same time and reality teaches us that there is no chance of success in this strategy of confrontation, not only with Spain but with Britain also. In my profession as a nurse, the administration of bitter medicine has been commonplace and therefore I know that this is a bitter medicine for Gibraltar to hear many of the things that I have been saying but they have been well-intentioned and aimed at the health of this community in the future. I think that it is the responsibility of all elected Members to help form public opinion and not just be opportunistic and say, "Look, there is going to be an election, what can I say to the electorate so that they all vote for me, no matter what it does for them." We have got to think ahead, we have got to plan and we have got to know what is really important and good for Gibraltar and try and form public opinion whether that costs us votes or not. You see, Mr Speaker, in my

professional background one of the things that I have had to learn is empathy. Empathy is when a patient is seen suffering and he is not told "Oh, I am so sorry for you." No, empathy is where rather one tries and get into his own shoes and try and see the problem from his point of view and this is a technique which I have had some success with, perhaps too much, because in trying to understand the problems of Gibraltar I have tried to put myself - I did not need to put myself in the Gibraltarians shoes as I already am - in the British shoes and in the Spanish shoes and see what it feels like to be like them. For example, if one goes to do a course to be a cancer nurse, they give a whole day of brainwashing, making one pretend that one has cancer and they talk through how one goes to the doctor, and the doctor's face, right through to the time when one is present at one's own funeral and see the family's reaction etc. So that one can get some notion of the feeling of what it is like and so we must try to see what the Spanish position is what the British position is so that we can have a success in taking a discussion and a negotiation between these three sides. Another thing that seems very important in nursing is of course the grieving process. When somebody suffers a loss, a bereavement or any serious loss, for example the loss of a job, there is a well recognised process of grievance and it takes first of all denial. One just cannot believe it. We say, "No, no, it is not true. It is not true" and then we go on to the angry and we blame this one and everyone. We blame the stupidest things, and gradually we settle down to a deep recession which hopefully goes on to a sense of resignation and finally great positive acceptance of the new situation, that what has been lost, has been lost for good. In Gibraltar many people are still mourning the loss of the British Empire and I know that this has been a very painful loss to many of us and especially to the more elderly in the community who saw the horrors of the Spanish civil war and reject to which they fell during that time and they saw Britain's finest hour when Britain stood alone against all comers and the aftermath of the war. That is the part I remember in all war films when Britain was always the victor and how wonderful they were. Then we witnessed the poverty in Spain, heartbreaking poverty, from times back and when Franco began his campaign to recover the Rock, certainly I never understood at all those who said, "Yes, we have got to seek some arrangement with Spain." I never understood because there was no economic reason for it. They were all begging and starving there and we are here living off milk and honey. There they had the dictatorship that our parents taught us never to criticise anybody in uniform but we lapped it up; we learnt it with our milk never to oppose a uniform in Spain but when I took my own children at the ages of

seven or eight to Spain and they said to a bus conductor, "I am sitting here because I am paying and I am not getting up" it sent a shiver of fear down my spine thinking that they were still suffering those days and of course they had moved on to a democracy. Mr Speaker, if there is something that damages the grieving process more it is only the giving of false hope. When somebody, for example, is faced with a terminal illness and somebody comes up and says "You are going to be cured" they will never come to a positive acceptance because the false hopes makes them go all the way back again to denial and to anger. As leaders of this community we have to help them through the stages of this grieving process and make them know that we are in an entirely new situation. I know that the Chief Minister has put a lot of effort into this part. We are going this far in saying "Look, the MOD is going and if it has not gone, sooner or later, it is going to go and we have got to stand on our own two feet." Unfortunately, there are new realities with which we have to come to terms and these realities also have to go through those stages. Because the dinosaurs, though very big and powerful, were not able to survive. The reason they did not survive because they were unable to adapt to the new circumstances and we have to adapt to our new circumstances of the departure of the MOD; of the friendship between Britain and Spain and we have to think of new modes and new plans for our future. We cannot be stuck in the images of the past and we cannot give the answers of the 60's to the problems of the 90's.

Mr Speaker, I do not know whether I am going to have four years in this House of Assembly. Certainly, if I do not, it will not be because of a bye-election caused by me. It will only be because of the Chief Minister calling an election early that my four years, God of course disposing, that this may be cut short. I know that at the end of my time I will say "What use has it been?" Mr Speaker, for me personally and for my family, yes, I have received the stipend. That I have positive for me, but what for the people? For the people is that I am not looking for popularity here, I am looking for a service to my people. I know that my fate is very likely to be that of marathon. Marathon was the Greek messenger; one of the fastest runners when they had to run miles and miles to take a message and unfortunately his message was bad news so when the Emperor or the Greek king read his message the first thing that he did was to kill the messenger. This was Marathon and his name went to the long distance running that has been given his name and I know that if the people of Gibraltar are so unsophisticated to be able to discern what I am saying or if my enemies are able to distort my words in such a way that they do not come through, then what will happen to

me will be like what happened to Marathon. I am willing to take that risk.

About 18 months ago we had a visit from MPs from UK, there was a group of MPs from both sides of the House and from the House of Lords who came to Gibraltar and they met with the Government on one night and they met with the Opposition on another and we had opportunities to meet them and speak to them. At that time, Mr Speaker, I was shocked by their attitude and I wanted to come out publicly and say "Look, this is what the MPs are saying" but, of course, in those days I could not say whatever I liked, I was subject to the party whip and I was not able to say so. Nonetheless, I was shocked by their attitude because they came with support from UK, but they came with qualified support and I am not sure whether the people of Gibraltar were made aware of that aspect. There were some that gave unconditional support. There was a Lord and there was a member from Northern Ireland who, because of their own difficulties with sovereignty etc, were totally backing our stand. But the others gave support but in each one always qualified to different extents. There was also a certain impatience with the position that we Gibraltarians were taking. I find it alarming. I wanted to pass it on to the people. It was a negative message. Now, Mr Speaker, we have celebrated the 25th Anniversary of our Constitution and this was a wonderful event over this weekend for which we are all very grateful to you for organising. It was a wonderful occasion here and nonetheless I ask myself, from the ceremony that happened here and from the speeches that went out over the radio and the television, are the people of Gibraltar getting the full message? Because it is true that the overpowering and overwhelming message was that Britain stands by the Preamble and that message goes out powerfully, not just to reassure us Gibraltarians, but also goes out to upset the Spaniards who immediately put the queue back down to the Caleta Palace. But the full message comes with nuances and I would not like that the members of this House should be the sieve or the filter which stops that full message from going out to the people. I was speaking to Sir Frederick Bennett who told me that the genesis of the Preamble was actually in his handwriting and we felt a conversation in a group. This was not private. This was a group, and the tenor of what he was saying to me was such that I was going to say to him "Look, what is the matter? You have given us the Preamble 25 years ago and now what? You want to take it away from us or what?" But then I thought that this was our most honoured guest so how could I be so rude to him? So instead I said to him "Look, I have to tell you that the Spanish flag will not fly over Gibraltar in my lifetime with my consent." The furthest I would say was "Look, I will leave it open

to my grandchildren to accept the Spanish flag if they want to on one condition, that the Spaniards also leave their grandchildren open to the fact that we may have independence in the future." He answered me "People like you make me despair, what are you talking about, your grandchildren? You have to sort it out now" and I said to him "Look, if I make you despair, people like Joe Bossano must make you stark raving bonkers." So, what was then the full message? Because Lord Shepherd also was on the television reminding us that Britain was our friend that we should not turn against Britain because then we would lose everything. That was made very clear on his public television message. They knew 25 years ago that the future was going to be very stormy and very difficult for us and they came to our help and many Gibraltarians in the political arena worked very hard to produce this Preamble to the Constitution and it was wonderful but now a new generation must go on to do something new. We cannot live just on the Preamble of the Constitution of 25 years ago. It is up to this generation to use it for something and the full message from this people was "Look, we armed you with the Preamble to the Constitution to enable you to face the troubled, stormy, changing times ahead. To give you a veto so that you could go safely into the negotiations, to negotiate a new future for you because the tide of history goes inevitably forward and you cannot stay stuck in the past."

Some months back I read a letter from the Chief Minister to one of the UK national newspapers. I have not been able to lay my hands on it but I am sure the Chief Minister will remember that he wrote to the UK press saying, "There is an article saying that Gibraltar is being nudged in the direction of Spain" and he wrote to them saying, "If they are nudging me, they are doing it so underhand that I do not even notice" or words to that effect. When the MPs coming from England are saying that I know they are all primed by the Foreign Office with the same line before they come but if they are all peddling this message then I think we are being nudged in that direction.

I know that the Chief Minister has said that the Preamble represents a minimal position, not enough to satisfy the people of Gibraltar. I agree with him. It is not enough. It was not intended to be enough. It was intended to be a weapon for a new generation of Gibraltarian politicians, Gibraltarian statesmen, to lead us into the future, safe with this weapon of the Preamble to the Constitution to forge a new future for us which would answer to our aspirations. When I have suggested to my fellow Gibraltarians that an Andorra solution that could come when dialogue has prepared us for negotiations

and negotiations may make it possible to achieve that status which would give us greater self-government than we have now and would also give us a basis for prosperity in the future, I am taking all these factors into consideration.

Now, Mr Speaker, in my notes headed "pot pourri" I would like to give various little things. The Chief Minister was saying that he did not want popularity and that he had said four tough years lie ahead at the election and so forth. I wanted to check this so I go over the manifesto. Let us see whether this comes out in the manifesto. Mr Speaker, I do not find blood, sweat and tears as part of his programme and I am saying to the Chief Minister that if now he has changed his ticket from offering economic prosperity to offering blood, sweat and tears now, then he should do the honourable thing and call a bye-election by resigning from this House because it is not the ticket that he stood on. I did not find anything useful in my search to confirm the view that he was putting across that he had offered four tough years but I did find something that I find rather hilarious and I would like to share. He said, "The GSLP is convinced that if we persist in the stand that we have always taken, we will gradually earn the respect of Spanish public opinion for our views just as we have already largely done in the UK." Mr Speaker, that statement is totally devoid of reality and Gibraltar cannot have changed that much in two years but certainly our views receive no respect from Spain, they see us as a smugglers' paradise, as purveyors of drugs for their children. They see us as a band of outcasts and pirates. In the UK, public opinion expressed by articles in the press which previously were all in our favour now are all against us. I do not see, Mr Speaker, any basis for reality for this remark in the manifesto.

I would like to read a few sentences from the Gibraltar Chronicle of 14 May and this is an article on things that Mr Solana said to the Foreign Office Committee to the Spanish Parliament. He says, "Spain respects the population of Gibraltar and recognises that Gibraltar has an obligation with that expressed in the Preamble of the Constitution." It is nice of him to say that. I know he said nasty things too but he did say that. "We regret that as a consequence of the restrictions applied during the 1960's there had evolved in Gibraltar a whole generation which feels more alienated from Spain and lives anchored in situations of the past. We regret the closing of the frontier and the alienation of the Gibraltar population." There have been many governments all over the world that have been asking pardon for things that they have done wrong in the past like, for example, the President of Germany has asked pardon for

things that went on 50 years before and the Japanese and even now the Pope is going to ask pardon in making the Spanish Bishops to ask pardon for the things the Spanish did during the Inquisition. I think that this is very mild but it is in that category of statements.

"The Airport", he said, "would have benefitted the Campo in Gibraltar and would have been a confidence-building measure." It seems that if we get into their shoes they regret the opportunity of having implemented the Airport Agreement because..... [Interruption] We take the initiative against them in taking them to court. What happens after a court case? Bitterness and more hassle. But they saw it as a confidence-building measure so if we had now the airport shared for five years we would have said the best thing we ever did and this they saw as a method for building up.....

Maybe it is all lies or maybe we are all paranoid or maybe it is somewhere inbetween.

Mr Speaker, this is the financial report of the Bland Group of Companies and apparently they have turned the Rock Hotel into a positive cash flow so I hope now the Government will be able to collect back electricity and water and so forth. There is a paragraph here which says, "The Group continues to advocate to the Gibraltar Government that they should invest in an advertising and promotion campaign in the UK, a major source of Gibraltar's hotel marketing. It is worth noting that an additional 10,000 visits to hotels would produce an extra £7 million in Gibraltar from a £250,000 comprehensive advertising campaign and would have a very real ripple effect of creating an economic climate of self-sufficiency in tourism." Mr Speaker, I know that last year in the House this question was brought up or maybe it was the year before, about the importance of advertising and the Chief Minister said he thought it was a waste of time and he was not going to do it. I asked him whether this was based on research and it was not based on research. It was based on how many 'phone calls had been received in the Gibraltar Office and so on. Bland Group of Companies have given this advice and it seems to me for a company that give their turnover here which since the GSLP was elected to Government have changed their turnover from £30 million to nearly £60 million. It seems they are people who know how to deal with money and people who are worth listening to. It is a pity the Government has not turned its turnover from that to that.

It is also interesting to note that the reason diversify so far is to protect their investment because they were liable here in Gibraltar. They were in danger of losing

their holding if things got worse and therefore they have made themselves safe by investing outside Gibraltar so that they can prop up their local investment, because they have their roots here. All I am saying is that their advice is worth listening to. There is a paragraph here worth reading about the airport and it says, "It is with regret that we must again report that the Gibraltar airport is still at an impasse therefore it has not been possible to break out of the existing straightjacket whilst on the other hand the neighbouring airports in Andalusia continue to surge forward thereby creating a competitive problem for the future associated with a great lead in volume and much more economical fuel and landing fees in Spain compared with high costs in Gibraltar." Mr Speaker, the world is not waiting for us. The world is getting on with its business while we are stuck in a rut and Malaga is surging forward and when the time comes that we want to break into the market we may find that we cannot. We can see in the newspaper an advert, "Low price flights from Malaga." Our own people are going to Malaga for cheap flights. This is a big problem and we simply have to face it. I have here the answer to the question that I asked the Chief Minister some weeks back as to the reasons why the Airport Agreement had been rejected; what were the issues in dispute by way of reviewing and revising the whole issues. It says here, "Spain argued that the agreement was mutual on sovereignty simply because it did not bring about a transfer of sovereignty of the isthmus to Spain." In other words, the sovereignty has remained the same, they realised that sovereignty will remain the same. It was the two Spaniards that were putting as an authority in permitting flights or not against the two British ones that maybe did not want to intervene in a way against their interests and therefore this was an exercise of sovereignty. I give way.

HON CHIEF MINISTER:

Mr Speaker, if the Member is going to quote me let him quote me correctly. He is putting his interpretation on something which is not in the answer that I have given him. I have not said anything about two Spaniards meeting two British. Nobody even got round to deciding what was going to happen if the implementation had proceeded. I will explain it to him again, because some of the time that he has been speaking on this in his contribution it seemed to me that perhaps he is misguided and therefore if it is a question of being misguided before he finishes us like Marathon maybe I can save his neck. The Civil Aviation Authority today is the one that decides whether a French aeroplane can fly to Gibraltar or not because this is a British airport. In the whole of the European Community one goes to the nationality of the airport to

ask for permission. The Spanish position is that the permission has got to be jointly given. The only way one can legitimately say it requires the permission of the two nation states is if the airport belongs to both of them. That is the point.

HON P CUMMING:

The whole question is on what grounds may they, in any conceivable circumstances, wish to use whatever influence they had to stop a flight. Of course if political - out of the question. But if some mechanism was sought whereby it was only on technical and professional grounds that a flight would be..... that would be different. What I say is that all the points could benefit from clarification and further discussion. That is all. I am not saying, "Let us implement the Airport Agreement."

Mr Speaker, I would like to move on in the pot pourri and I would like to say just one word about osmosis. Mr Moran threatened us with osmosis and I have never taken this threat seriously. I am willing to expose myself to osmosis because I think our nationality is proof against osmosis. I am not a chemist but I understand osmosis as a gentle process and certainly there will be osmosis of businesses as there has been across Europe but not of national identity. Our national identity is proof against osmosis. About the airport, if I can just go back because I see here a note that I had forgotten, I want to say that I was present in the demonstration against the Airport Agreement and I shared all the emotions of everybody present. I was angry. "This cannot be true, how could Britain be doing this to us?" and then I went through the phase of anger and we were all angry.

The Hon Mr Bossano was saying a few weeks back about the infamy of the Airport Agreement; the anger lives on so many years after. The normal grieving process for this loss that we suffered when Britain intimated its stand on the airport by now should have passed through the phases of depression, resignation and arrived at a positive acceptance of the situation to see where we can move on to but of course the healing process has been interfered with by giving false hopes to our citizens. Giving false hopes that we can turn Britain back; we can make them change the policies that they have clung to for 14 years and show no signs of going back on their position. As I say, Mr Speaker, we have to adapt and survive. I want to say one word about constituency work by members of this House and it seems to me that when a constituent comes to any Member with a complaint as he happens to come to a member of the Opposition usually the members of the Opposition can be more available to the public because

they have less responsibilities than the Ministers. It is often that the ones who have less commitments, people who are retired maybe like myself are easier to get hold of than to get hold of one of the Government Members and if somebody gets hold of me and says, "I have this problem with my house, or with my this or my that." Constituency work is part of being a member of the House of Assembly and so we must do something. So then obviously I have no power at all. I can maybe have influence but if something has to be done a Minister has to do it. If I go to a Minister with this case I am not looking for political capital because if it is sorted out it has to be sorted out by the Minister and it may be that I go back to the person I have spoken to Mr Mor, Mr Feetham or whoever, and this is what they have done, they have told me this or they have arranged to follow it up. "Oh, thank you so much" and they are grateful to me but they are also grateful to the Minister so who they are going to vote for after that heaven knows. They will probably vote for neither. There is also a filtering process that we can carry out in these conditions because very often they are wrongly informed and we can put them right in their information. Often I have said "Of course not even Mr Bossano would do anything like that, he has got it all wrong." Very often we are able to sort it out just ourselves but when we have to come for a Minister, Mr Speaker, there are several Ministers, where we have to spend the whole day or a week with one constituency case to try and make progress. I know, for example, one case I took to the Hon Mr Feetham and was attending a meeting. I know they have a lot of meetings. The secretary, "He will 'phone you back" but he did 'phone me back and he did give me the information I needed and he passed me on to so and so who could give some kind of a response but not all Ministers are the same and sometimes one has to lay siege to a department and I would ask Ministers, "Please there is no political capital here. We are trying to help a constituent, help us to do our work."

Mr Speaker, I would like to bring a complaint against the Chief Minister who on television the other night linked my 4 per cent in the opinion poll with the 44 votes for integration with Spain, 26 years ago and I think, Mr Speaker, that knowing as he did my real statements and my real sentiments this was irresponsible of him. It was not nice to link the two in the minds of the public, voting for integration with Spain and all I am saying is that we have got to go to dialogue. Maybe the dialogue will turn into negotiations and maybe negotiations will produce a solution acceptable to all and that is voting for integration with Spain, 26 years ago? The Hon Mr Bossano has linked these in the eyes of the public and I

think that that is not a service to putting politics in Gibraltar where it deserves.

Mr Speaker, several hon Members have said, the hon Mr Baldachino for example, how I have to be hounded out because my ideas do so much damage as though I had some dreadful virus that is going to be contaminating everywhere. Of course, it may be that my ideas will do a lot of damage but it will be damage to the GSLP not to Gibraltar because it is said that the pen is more powerful than the sword and when we look in the history of civilisation we see that those who have exercised most power have been those who have pushed an idea that has moved the masses, the philosophers in other words, that have moved the masses. It is an idea that if the electorate begin to get the idea that the Hon Mr Bossano is leading Gibraltar on the wrong road which is what I really believe then of course this is something dangerous to him. He has built a political colossus but it has feet of clay and if I take a sledge-hammer and might break his ankles it will come crashing down. The sledge hammer is simply an idea. A political philosophy and, of course, if it gets out of the bottle the virus that infiltrates it maybe will do a lot of damage. On the other hand the end of the story may be like that of Marathon. Ideas must not lead to extreme positions and bring our democracy into disrepute.

In the contrast of ideas and very briefly what I have said Mr Speaker, that we must go to dialogue and that dialogue may produce a settlement on the lines of Andorra, those are my ideas that will bring prosperity to our economy and independence to our Government. I would like to contrast the ideas, just a short few, the ideas of the Chief Minister. Very often they come by a sort of Freudian slip and the first one is the Sapper, the soldier artificer in the Main Street. The Chief Minister is unveiling it and he says, "We have to defend Gibraltar like the sappers did." The sappers defended Gibraltar stuck in caves in a siege bombarding the Spanish campo and I say, Mr Speaker, we must not defend Gibraltar like that, we have got to defend Gibraltar with diplomacy, with dialogue, with negotiations, with help from Britain. The Chief Minister, when the Governor opened this House of Assembly, or when the Governor came new from England, he said to him, "You may find that we Gibraltarians are like rock scorpions. We have the sting in the tail" and it is a curious thing about the scorpion, Mr Speaker, that it is the only creature of the animal kingdom capable of committing suicide. If we put fire round it, which approaches it, it looks to see if it can escape and the sting in his tale embeds into its centre and poisons itself and commits suicide and I say that the ideas of the Hon Mr Bossano are all negative and

all leading to desperation and to closing down..... The other idea of going down with the ship, he is the captain going down with the ship. I think that he has a kind of deathwish and I am very sorry, I wish that he did not, but certainly he should not share it with the rest of the community.

I think it would be helpful if we all went to visit Castellar because if we carry on on the road that we are going for, say, 10 years, Gibraltar is going to be like Castellar la Vieja, which is a city abandoned, neglected, with a handful of ne'er do wells living in it.

The Hon Mr Bossano's offer to the people of Gibraltar have been like the offer of the Pied Piper of Hamelyn who came with his magic flute and was able to influence people to follow him. He cleared the town of rats. They all followed his magic flute but then of course the people would not pay him and to get his revenge he led the children away and they were never heard of again. That is the story of the Pied Piped of Hamelyn.

The Hon Mr Bossano with his election manifesto, two elections back, the offer he made was irresistible. Had I not had any political discernment I would certainly have voted for him because what he was offering was..... I honestly wish that it had been the prospect of reality because I would certainly have plied myself to this programme but all the things that I have communicated in my speech are against it and therefore we need to adapt to survive and find a new road ahead because Mr Speaker, in the new election that comes next it will no longer be possible for the Hon Mr Bossano to repeat his offer because already we see that economic prospects are very greatly diminished and the dream that he offered is simply not possible. He will have to say to the people of Gibraltar "Look, vote for me because you will be very, very proud but you will be very, very poor."

Thank you, Mr Speaker.

HON J E PILCHER:

Whilst I collect my thoughts let me tell the Hon Mr Cumming that Marathon was the place where the battle was fought. Phidipedis was the messenger. Marathon is now defined as a very long race and can also define his very long and boring speech. There has been very little this year that requires me to do what I normally do before I tackled my departments and that is to comment on the contributions of the Opposition Members. I would just like to make one minor quip and that is related to the quip that the Chief Minister made which was replying at the beginning of the contribution of the Leader of the

Opposition by another quip saying that it was very easy to govern as the Chief Minister had said in his contribution once everything was alright; we had a balanced budget and it was very easy to govern that way. But of course the Leader of the Opposition forgets that that was not the position in 1988. The position in 1988 was that we had a very, very serious problem on housing. My hon Colleague, Mr Baldachino, has explained the numbers of people and I will answer the Hon Mr Corby shortly. We had an infrastructure in Gibraltar where we could not provide electricity for developments; could not provide water support for development, could not provide sewage facilities. It is very easy to govern today if the money keeps coming in. It is very easy to govern today because we have had a GSLP Government over the past six years that have delivered all the needs of our Community and requires now to ensure that that future which the Hon Mr Cumming cannot see but which we can still see become a reality. Perhaps in two years time he will even vote for us. One other mention to the Leader of the Opposition. I think he mentioned in his exposé in trying to disassociate himself with the comments on the aside by the Chief Minister on the Airport Agreement. I think he said that we had not followed the lead of the commercial arrangements for the airport. We have never looked at the commercial arrangements of the airport because they could only follow the arrangements, political or otherwise, that had to happen before that. But even then we pointed out when the Airport Agreement was signed that even as the agreement read commercially would make no sense whatsoever to Gibraltar because if we had two terminals, which is what the agreement provided for and we had one terminal feeding the Spanish market and one terminal feeding the Gibraltarian market, it would not take any person with the intelligence of the Hon Mr Cumming to work out that there would be a tremendous flow through the Spanish terminal and a very small flow through the Gibraltar terminal. Commercially it would make no sense whatsoever. [Interruption] We are talking about the commercial arrangements, the passenger tax flows from the sovereignty of the airport which would also be in doubt given his shared and joint uses facilities. Only another item, Mr Speaker, requires comment. I think it would be impossible for me, although I try to follow his speech, to get on my feet and not make a comment on the contribution by the Hon Mr Cumming to this House. I think if he lived in America he would probably have 10 psychologists and five psychiatrists because he makes different comments which come from different personalities. He wiggles his way through different comments and he comes up with different.... It is really as if we were having a conversation with 10 different people. I read sometimes some of the letters he sends the press. Very concise letters, very carefully

written, very logical letters and then Mr Clive Golt interviews him on television in following that letter and what I saw last night was a stuttering, mumbling individual who could not put two thoughts together to answer the questions of Mr Golt. It does not make any sense whatsoever. He is either a psychofrenic who has 10 personalities or he does not speak his own thoughts. He speaks somebody else's thoughts. Obviously somebody puts the thought in his mind but it is not the same thing to carry somebody else's thoughts in the mind and be called upon on being interviewed by a professional like Mr Golt. It is very difficult to follow the thought through with just having one thought. One has to have an argument after that thought. This was seen transparently and clearly last night, not only by me, but anybody who saw television last night. He could have seen that the person who wrote that logical letter - not logical that I agreed with it - but logical from the point of view of what he was saying, is not the same person seen on television and I have heard here today. Therefore, my only conclusion can be that the Hon Mr Cumming is doing two disservices to Gibraltar. One is by saying the things that he is saying and the second is by speaking for somebody else who does not have - I repeat what the Hon Mr Baldachino said - the guts to stand up and be counted himself and uses the Hon Mr Cumming to expose his thoughts to the point that he can expose them in writing but certainly he cannot expose them when he is confronted by logical arguments.

HON P CUMMING:

Mr Speaker, on a point of order, I am being accused of being a puppet of somebody else. I would like him at least to say who? Is he thinking, for example, that I am the mouthpiece of the Partido Popular? He said I am speaking for somebody else. Can he at least tell us who or withdraw his statement that I am speaking for somebody else as a puppet?

HON J PILCHER:

Mr Speaker, first of all I have not said "El Partido Popular", he has. I have not mentioned Spanish political parties at all. If I thought that the Hon Mr Cumming was the spokesman in Gibraltar for a Spanish political party, then perhaps the course of action that I am taking would not be to stand up and talk to him across the floor. I do not know who his sources are, I have not got the slightest idea. I think he has been asked on various occasions and his comments were "There are various people who share my thoughts. There are various people who are.... but obviously those people are still thinking about standing in an election with me". I do not know

who those people are but I am convinced that he has either got triple, quadruple or quintuple personalities. In the majority of times, because he does sometimes defend his own thoughts, he is not defending, here in this House or last night on television, his own thoughts.

I would like to inform him that small Yorkshire terriers do frighten alsatians sometimes and perhaps cannot beat them but certainly can hold their own ground, as I have seen many times. He told the Chief Minister that perhaps what we should do is give out the books of all the Government accounts which we have already explained in this House ad nauseam. I do not know what the Hon Mr Cumming would do with the books, perhaps take them to somebody to look at them because he certainly could not, given his performance in this House, look at any accounts and make any two joint thoughts on that.

Coming to the point related to my departments, Mr Speaker, I think initially tourism. Very little to say about that because of three elements. I also got the Hansard late like every other hon Member did, but it was made absolutely clear by me last year what the situation was, what the position was as regards tourism and whether the Leader of the Opposition likes it or does not like it we have, to a point, taken out 99 per cent of the policy of tourism and given it to the industry which is where it belongs. Not that it belongs because we say so. I remember the time of the Pitaluga Report. I did not agree with 80 per cent or 85 per cent of what he said but he certainly said that tourism should be depoliticised and that has been the continuous message throughout. I remember saying to the Opposition Members last year that I had just been to a conference in Bermuda where the overall thinking was that the conference said that governments should devolve political or policy matters of tourism to the industry. Following from what the Leader of the Opposition said this morning about the Government not getting involved in market forces, this is what we have done in tourism. We are allowing the industry to regulate their own marketing policies, with one major exception, which I think the Hon Mr Cumming mentioned when he read the Blands annual report. That is that we made it clear two years ago, like we have made it clear last year, like we will indeed make it clear tonight, that we can only afford some £300,000 to £350,000 for marketing and advertising Gibraltar externally and that is what the Gibraltar Government can afford and that is the only point where we are still at, I would not say loggerheads, but the industry still believes that we should spend more money. On the question of marketing, I think I gave the hon Member a very long and clear cut exposition of what we were doing this year. Like I said last year and I think again it was mentioned by the Hon

Mr Cumming in reading that Bland report, the industry is not a total success but is slowly coming out of that recession that hit us in 1989 and 1990 and we have been slowly creeping up and one can see that the liners are up, the yachts are up, the frontier traffic is up, the hotel occupancy figures are up and the hotels are now, in most instances, being able to break even or make a profit. But I do not want to take the benefit of that because as I said last year we have devolved that policy-making to the industry, in the body of GIB who, through the UK GTA, through the Hotel Association and through the many meetings that they have here in Gibraltar and in the UK are determining what that policy should be. The major impetus of the Government is on the infrastructure on the ground and I am happy to have heard the Hon Mr Francis, in most cases, saying that he is happy to the extent that we have improved Gibraltar, improved the product and improved the cleanliness. I am not for a moment saying that it is 100 per cent, there is still a long way to go. But we have made major improvements in our tourist infrastructure. We have indeed this year extended further the Nature Reserve. We are now embarked in the 100 ton project that is going to, again with the help of the EC. We will refurbish the 100 ton gun and hopefully bring it back to some of its former glory and we have done things like we have advised the hon Members last year that we were doing, the City Walls and many other aspects of that tourist infrastructure. I will not say that that is perfect. There is still a long way to go and that will be one of the main thrusts of the Ministry of the Environment and the Gibraltar Tourism Agency this year but I will not agree that Gibraltar is a scrapyard and is filthy. Gibraltar has improved dramatically over the last two years. Many areas are much, much improved, some areas are almost there and there are the pocket areas like the reclamation which we are now working on. I think the Hon Mr Francis mentioned that we are now getting there and various other areas that we know we have to work at. We know the areas that we have to work at. We live in our society and we know the areas that need improvement and I would say that we are now 75 per cent there, with 25 per cent still to go.

On the environment, Mr Speaker, again I thank the hon Member for his comments. It is not that the Ministry of the Environment is going to make its presence felt by doing some of the capital works that the hon Member mentioned. Unfortunately, like I said last year, money is difficult to come by. We are about to complete the Piazza project which I would say very humbly and modestly, will be something that Gibraltar will be proud of. We are now going to move to the Line Wall Boulevard which is another area that requires, certainly in the city centre, some work to be done and I think slowly but

surely between that type of improvement and the improvement that we are doing to our sites to cleanliness and to beautification in general, I think that I am certainly happy that we are going the right way about it. The Department continues slowly but surely to put all EC legislation on our statute books. I have to say to the hon Member like I said last year, that we do not intend any major changes or amendment to our Company Ordinances but I can tell the Opposition Member that during this year we also seconded the Gibraltar Ornithological and Natural History Society to the board of the Development and Planning Commission and now we have the Heritage Trust and GONHS with us in the Commission, seconded but as watchdogs, in order to ensure that everything that we do is cleared by them. That together with the Environmental Nature Commission that I spoke about last year, will protect heritage and the environment from any move - not that there will be any - of the Government to do anything against that long term heritage or natural beauty of Gibraltar, Mr Speaker.

As regards the points that the hon Member made on the Heritage Trust, I think we have answered during Question Time. We are working together with them. We are now looking at the City Hall project which I do not want to take away any of the thrust of the Heritage Trust because it is their project. It is their work and if it finally gets off the ground all merit will be to them but we are working closely with them to try and ensure that we give them the back up, hopefully financially, in order for them to complete that project because that project completed with what we are doing at the Piazza and Line Wall will ensure that the city centre will be an area of beauty in Gibraltar. We are on all fronts looking at funds available for the environment, in nature, in heritage, in order to try and secure funds for nature in general and I am sure the hon Member read the submission that has been put by GONHS on the Alameda Gardens. We are also looking at heritage and we are also looking at EC funds available for the continued expansion of the museum. Sometimes something that is left behind but let us not forget that we are already in the third phase in the expansion of the museum and it is something which I am very proud of and people who are working in the Museum Committee, prior to us taking over, have seen the great steps that we have taken in that direction since 1988. But, of course, as I said in the past, nobody now mentions that because these are happening and I think as I said, I believe when we opened up the Willis's Magazine, sometimes it is better not to ready anything because as far as I am concerned, if nobody mentions the Alameda Gardens, nobody mentions the Nature Reserve, nobody mentions the Museum, and nobody mentions the other areas, it is because things are working well. Nowadays

with sensationalist press - I am not saying this in any derogative fashion - it is normal, whether it is going to be letters or articles, related, certainly from a governmental point of view, to criticism. I know, for example, that in the case of the Gibraltar Chronicle they have had very good write-ups on the Nature Reserve but from a governmental point of view normally an article related to a governmental matter is one related to criticism and therefore the less I read about all the areas that I have mentioned the more successful I believe we are being in those areas.

One final matter, but a very, very important matter as far as I am concerned, and I think this has already been mentioned publicly on a couple of occasions, is that we are now actively working in conjunction with the UK Government and in drafting for the realisation of a marine reserve which will be equivalent to the Upper Rock Nature Reserve but obviously instead of protecting flora and fauna, protect our marine life. There is one comment that I need to make on the comment made by the Hon Mr Francis, in relation to the overhaul of the schedules of the listed buildings in the Heritage Trust. At the moment we are in discussion with the Heritage Trust in relation to these matters and I think it would be wrong for me to divulge in this House what I will be telling the chairman and the secretary of the Commission when I see them next week. We shall have other matters to report to the House when next we meet.

I believe, having tackled the other areas, I need now to tackle the area related to housing which as all Opposition Members know was an area that was added on to the Ministry of the Environment. I believe we made it public in June or July last year but certainly was officially done on 1st September 1993. I think I have to take umbrage at a lot of the things that Mr Corby said because he said we are forcing people into purchasing their own homes. Mr Speaker, that is totally contrary to what we are doing. At no stage have we forced anybody into purchasing a property. It is not a secret Government policy, we have said quite openly we believe that the future of the accommodation problem in Gibraltar has to be a home ownership scheme where all those people who can afford to buy a home will buy a home. Therefore the Westside I, Westside II, Brympton developments and other developments in which we have built in the major subsidy for the land and the 50/50 was able to capture a large chunk of that market and we have had very few problems related to the things which the Hon Mr Corby said about a society in debt. There have been various problems of various of the purchasers in Westside I, Westside II, and Government policies related to that which I explained last time, has been able to help in

that area. We are not a society in debt. When the Hon Mr Corby said that what we are doing is passing the cost on to certain people, let him not forget that public housing is passing the cost of housing to the people of Gibraltar but, of course when there are more people than are purchasers those people then have got their own mortgages to pay, they then have got their own service charges to pay and on top of that they have got the money which we deduct from taxes to pay for other people's Government housing stock. We believe that the way forward is to help people into home ownership, Mr Speaker. I am surprised to hear the Hon Mr Corby say that when he knows that in Sir William Jackson Grove we have implemented what we term Option C - a contract to purchase. I am not a professional and an international viewer of housing projects in the world, but I can tell you Mr Speaker, that the implementation of the Option C cannot be equalled by any other Government anywhere in the world. The purchase of a flat over a 40-year period, interest-free, where the person is paying the equivalent of a rent which already includes the service charges. A person for a 3RKB is paying something between £22 and £25 a week which includes service charges, maintenance charges and all the on costs. Mr Speaker, to say that and not to take his hat off to say that that is something which is good for the people of Gibraltar, I think is very unfair. We have been very successful. What I said on television when the interviewer asked me a question was Gibraltar as a society no longer had a housing problem. The individuals who still are on the housing list have a housing problem. Of course they have. If we had tomorrow 1 per cent unemployment, Gibraltar as a society would not have an unemployment problem but that 1 per cent who could not find a job have unemployment problems, that is what I said. The figures speak for themselves. The Hon Mr Baldachino said that in 1988 there were almost 2,200 people in the list. Of those people, we only have 191 persons left, and we still have some 150/200 houses that have to be released by the people who have bought in Gib 5. We may have a problem of matching like we have a problem of matching on employment terms. If we have 60 people who require a 4RKB and we have 90 3RKBs and 10 4RKBs we have a problem of matching but as a society we no longer have a problem of housing. I have not said that the individuals in the waiting list do not have a problem. I have not said that the people in Town Range do not have a problem. I have not said that the people in the pre-fabs do not have a problem. What I said is that as a society I can proudly say as a member of this Government that in six years we have no longer got an inherent social housing problem in Gibraltar. I can say that. Even Action for Housing have agreed. Of course we have problems with elderly pensioners, this is something that we are now

actively working on because these people do not have a housing problem, what they have is an age problem which is a social problem that after having lived 35/40 years in a particular house, they then cannot walk properly and therefore they cannot come down four or five steps. What we need to try and do is we need to try and match the flow of properties to those problems. I am not for a moment, and I do not want to be misquoted by saying that there are still not many people in Gibraltar that have a housing problem. In fact the overall list up to today is something like 500. Having said that, I need to say that of those 500, 142 are people who want bedsitters, who, in the majority, are now people over the age of 21/22/23. There again, that is not a housing problem. Those are people who want to better themselves by not living with their parents any more and moving to their own home which they are entitled to, but that is not a housing problem as we defined the housing problem in 1988 when we had 3 or 4 families living in a house. We have also changed the housing scheme. We have now put the new housing scheme into operation. At least we have given it to the committees and now they are going to be putting it into operation. When we did mention this some six or seven months ago there was, I will not say a public outcry, but there certainly was a lot of people saying "It would be unfair if I have been on the list for 20 years and now you change the list, change the goal post and I find that instead of being in position one I am now in position 50." What we have done to circumvent that is we are keeping the historical list so anybody in the housing list prior to 1 April 1992 will be kept in a historical list. Everybody post 1 April 1992 will be passed to the new list that it has got a two year qualifying period but of course since we are now on 1 April 1994 in the majority of cases the qualifying period is either over or will be over by the time we have cleared the historical list. So I think the way we have done it is that we are not going to create a problem for anybody but it is now a scheme that is totally linked to needs and no longer to waiting time because we do not feel that there is any more a requirement. There will no longer be any major problems of people having to wait 10 or 15 years for their house. That, together with the administrative schemes that we have put in place by which the Housing Allocation Committee have now got their own administration working dedicated and totally for them means that the Government now have an arms length relationship with the Housing Allocation Committees and only get involved in policy or as the appeals mechanism in case that anybody believes that the Housing Allocation Committees have not acted according to the letter of the law. I am certainly very proud to be a part of this Government and I do not want to pin a medal on myself because I have not solved the housing problem in

Gibraltar. The Hon Mr Feetham, who worked very hard to produce the reclamation, Westside I, Westside II, the optical illusion that the hon Member mentioned this morning, Gib 5, and the Hon Mr Baldachino who worked tirelessly for four years. It is a group effort but I think I can say very proudly today that as a society if we still have a minor problem we will not have that problem in six months time, Mr Speaker. Thank you.

HON LT COL BRITTO:

Mr Speaker, before going on to the substance of my contribution on the Appropriation Bill, I would like to take up the rather provocative comment made by the Hon Mr Baldachino when he started his contribution, more for the sake of setting the record straight on purely factual matters than for any emotional reaction to what he said, both of which were inaccurate anyway. Let me also say that it is not the intention of the GSD to react to such type of provocative comments on each and every occasion on which they are made because having stated our case publicly outside this House and inside this House for the record, we do not intend to react to it each time. Let me state quite clearly that there is no pact, I think was the word the Minister used.....

HON J BALDACHINO:

Is the hon Member prepared to give way? What I said, Mr Speaker, is that people perceived outside this House that there was some special pact between the hon Member's party and the Hon Mr Cumming because they did not attack each other. I went further and said that there are people who perceive that some members of the GSD think like the Hon Mr Cumming, the only thing was that Mr Cumming thought aloud. I did not say that that was the case, I said that there are people who believed that. Therefore, I cannot say it is incorrect or correct, what I am saying is that there are people who believed that.

HON LT COL BRITTO:

Mr Speaker, you have reminded us on more than one occasion, we as elected members are responsible for what we say in this House and if the previous speaker is saying that this is the perception outside then either he brings it to this House, then presumably it is something that he believes himself. But be that as it may, whether it is a perception or a fact, let me state quite clearly, for the avoidance of any possible doubt, that there is no pact, agreements or anything similar between the GSD and the Hon Mr Cumming. Let me say further, in answer to what the Minister said, that if to date there has been little criticism either by our former hon Colleague Mr

Cumming of the GSD or of the GSD of Mr Cumming, this is hardly surprising considering that Mr Cumming, up to fairly recently was a member of this Party and consequently on most matters, on most policies, there is a fair amount of agreement. However, Mr Speaker, let the Minister not forget when he is taking note of what he perceives that people outside in the street are saying, that arising out of differences with the GSD that the Hon Mr Cumming found it necessary to resign and is therefore no longer a member of this Opposition and let me further say quite clearly and for the record that earlier on today my hon Colleague, the Leader of the Opposition made it quite clear to this House that in matters like sharing the airport and even on concessions, we have made our position quite clear that there is nothing in common with the views of the Hon Mr Cumming.

Mr Speaker, it has not been unknown in this House for either the Chief Minister or some other members of the Government to rise in the latter stages of this debate in previous years and make the point that it seems to be hardly necessary for them to wind up because there has been very little criticism on Government policy on running the economy. I am sure this will not be the case today because already there has been a fair amount and I have no doubt there will be continuously a fair amount during the course of debate. My own contribution will, in general terms, cover three main areas. I will be taking the Government to task, on general terms, on the management of public funds and lack of accountability; something which my hon Colleague has done in more detail earlier today. I will be tackling the Government's failure to meet their own target of lowering unemployment levels and, finally, I will be dealing with a number of areas which are my shadow responsibilities in various departments of Government. I will start by looking at the level of the Consolidated Fund as detailed in the financial statement on page 5 of these Estimates because no serious examination of the Appropriation Bill can be made without taking into account page 5 and the financial statement. In doing so let me retrace for the record the balance that there has been in the Consolidated Fund over the years since the GSLP has been in power. When the Government came into power in 1988 the Consolidated Fund, or as my hon friend said what used to be called the reserves of Gibraltar, stood at £11.2 million. The remainder for the following year dropped in 1992 to £8.9 million and down to £3.6 million in 1991. They recovered slightly in 1992 to £7.7 million and since then they have been dropping again to £4.3 million in 1993, £3.6 million in 1994 and today on page 5 we see that the estimated Consolidated Fund balance projected to 31st March 1995, that is next year, is down to only £180,000. In considering this figure further I would like to refer to

Hansard of this debate of last year, of the meeting on the Appropriation Bill, and specifically page 39 of the Hansard and quote what the Chief Minister said in relation to recurrent expenditure: "I mentioned last year that we were having difficulties in obtaining more saving from the restructuring of the Government services and therefore the main savings produced this year have been by cutting back on overtime levels." He then went on to explain about how the overtime was going to be cut etc etc and then he went on to say, and once again I quote from the Hansard: "without that", that being the savings on the overtime levels, "frankly, we would have been in very serious trouble". This is the Chief Minister speaking last year: "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 the next year really to look at a balance in the budget. We have got a £1.25 million pencilled in as a deficit on page 5. We have got £1.25 million left". In fact that figure is wrong in the Hansard, Mr Speaker, the figure should be £1.5 and not £1.25. "We have got what should be £1.5 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." To summarise, Mr Speaker, the Chief Minister considers that if he had not been able to make the savings we would have been really in serious problems with a deficit of £1.25 million and a balance of £1.5 million and that he was looking to a balance budget for this year. However if we look at the figures for this year the serious trouble the Chief Minister seems to think we were going to be in last year becomes a lot more serious when we look at what the figures now are because instead of having £1.25 million deficit that he projected last year, the figure has risen almost threefold to £3.4 million deficit projected for next year. More to the point, a balance which he was worried about last year about being problematic on £1.5 million has decreased to only £180,000. If we relate that to how the Estimates of Revenue and Expenditure last year have differed to what they have actually turned out in practice, it is not difficult to see how vulnerable that figure of £180,000 is because last year's estimates of revenue predicted £73.4 million and have turned out to be £70.2 million, a difference of £3.3 million. Last year's estimates of the current expenditure predicated £74.7 million, which has turned into a forecast outturn of £70.9, again a

difference of £3.8 million. When we have fluctuations of the order of over £3 million in estimated revenue and expenditure, it is easy to see that it needs not just as the Chief Minister says that we can easily be blown off course because of the smallness of our economy, all it needs is a slight miscalculation in some of those revenues or expenditures to put the whole of the Consolidated Funds into the red. Quite honestly it worried me to hear the tone of the Chief Minister in the latter stages of his contribution earlier today when he was talking about foundations for the economy being rock solid and that current levels are those that we can expect when the figures are so vulnerable and so slight. It worries me that we have had no indication of contingency planning from the Government of what could potentially turn out to be a serious situation of the fund going into the red, in effect, running out of money and the Government being in a position of unable to meet its financial commitments.

Having said that, I need to go back to my three other points of criticism of the management of the economy and the first one is to say, as has already been said earlier on, that once again we are faced with estimates of expenditure that are incomplete and do not give the total picture of what the financial situation of Gibraltar is because the Government have once again deliberately left out something of the order of £38 million of revenue and expenditure. This, of course, to a certain extent is slightly contradictory to what I was saying previously because the figures that we are presented with on page 5 could in theory be overturned one way or the other by the inclusion of that £38 million. What we are really saying is by giving us this incomplete picture of the position of the Government funds, we do not know whether that £180,000 projected to the end of March of next year is, in reality, accurate; whether in fact the fund could already be predicated to be in the red or whether in fact the fund is extremely healthy and could well be in £7 million or £8 million or even more in the black and we do not know this because of insufficient information. This is why we criticise the presentation of the Estimates, Mr Speaker, and this is why we have indicated that we will once again this year, as we did last year, be abstaining on the Appropriation Bill because of the insufficiency of information.

My second point of criticism, Mr Speaker, on the management of Government finances is something that we have mentioned on a number of occasions previously and has already been mentioned today, and I have to mention it myself, is the management of Government finances through commercial companies with Ministers sitting on the board of directors and the not answering and not

accepting liability in this House and not providing public information. I say this irrespective of the explanations that the Chief Minister has given on the functions of some of these companies, because for us it is a matter of principle. It is irrespective of what the companies are being used for. Even if a company was being used to irrigate the gardens in Alameda Gardens or the Upper Rock Nature Reserve or cleaning of the streets, it is irrespective of the seriousness of the matter in which the company is involved. It is the principle of Government business being conducted through commercial companies which are unaccountable, which do not present funds which have Ministers on the board of directors that we object to in principle and we shall continue to object as long as the Government continues this practice.

My final and fourth point is to stress once again the lack of a public accounts committee of this House of Assembly. Something that I have proposed a motion previously and will continue to highlight every year at this time of the House. I know it is Government policy not to have one. I think it is the wrong policy. We in the GSD think it is the wrong policy and therefore we continue to criticise it. We must be, and I think I am certain in saying that we are the only parliamentary democracy that does not have a public accounts committee. A public accounts committee is there simply to monitor expenditure on a day-to-day basis, instead of having to do it once a year or once every two years when the accounts of Gibraltar are prepared or once a year on the Appropriation Bill. It is there to monitor expenditure on an on-going basis, on a daily basis, not just of ministers but also of civil servants and it is a mechanism for keeping a check on expenditure so that if something is seen to be going wrong, action can be taken, not just by the Opposition, but by the Government, because the Government also sit on the committee. Action can be taken at the time when it is happening. A sort of immediate reaction, fire-fighting exercise. By the time the Government and ourselves find out these things which seem to be going wrong it is two years later when something appears in the accounts of Gibraltar and by that stage it is too late. A public accounts committee enables the Government to take redressive action, assisted by the Opposition, on something as it is happening. I know it is time-consuming, as it is necessary and I also know that the Government defend it as a matter of policy because they have never had a public accounts committee whilst they have been in Government. They defend it because they say that they opposed the public accounts committee when they were in opposition. What happens is that the previous administration, the AACR, had public accounts committees introduced and the GSLP, initially I understand I am not

certain of this, initially cooperated and then the Hon Mr Bossano who was the only GSLP member in the House then, decided that he would no longer take part in the Committee and because there was no interest on the Opposition side for participation in the Public Accounts Committee, the Government of that day, the AACR, decided there was not much point in carrying it on. I put it to Government Members that the precedent is for a public accounts committee to be put there by the Government and up to the Opposition to take part or not to take part if they want to. This Opposition wants to take part and I ask the Government to treat this Opposition as the AACR Government treated the GSLP when in opposition. They offered the Committee and it was the Opposition who turned it down. It was the Hon Mr Bossano specifically who refused to take part.

Mr Speaker, I now come to matters of unemployment and let me say straight away that I agree with the Minister for Employment and Education when he called it the greatest social evil of Gibraltar today. It is a sad and a difficult issue and one in which, and I have told the Minsiter before, I have no desire to try and score political points but in one that has to be faced, like he faced it in his contribution, and the fact has got to be looked at. I would like to say that I would like nothing more than to do what he asked in the final words of his speech and that is to be able to congratulate him for being in a position of providing full employment to Gibraltar but the facts remain as they are, regrettable as they are, are one of failure of the Government to carry out the self-declared policy of achieving full employment and by full employment I mean, in the words of the Chief Minister, to reduce employment to the historical levels of about 300 which they had always been before they started rising in about 1992. The facts are that, as far back as January 1992, there were 560 Gibraltarians unemployed, that about this time last year at the budget session the figure was around 600 and that in answer to questions earlier on in this meeting of the House, the figure has been established at 654 Gibraltarians. This, I think, if nothing else at this stage, establishes the need for the Government to change their policy on the question of unemployment benefits and to think again in the light of the possibility of unemployment increasing further in the light of the undoubted cases of difficulty and suffering that fellow Gibraltarians are already going through, there is a need to think again about unemployment benefits and look more closely at the plight of people in need. I do not want to ring alarmist bells or to say that things are any worse than they really are, but I have detected - it is not something that I have spoken to to many people - something that I had not come across in Gibraltar two

years back and that is an incidence of begging. There are people, not openly, who are so obviously in difficulty that they are asking for help from even passers-by. I would not dare to say that this is entirely the cause of unemployment but we have doubts in some of the cases that I have come across or heard about. It is a spin-off of unemployment and it is on this basis that I urge the Government, once again, as I have done in the past, to look at the whole system of unemployment benefits, of supplementary benefits for that matter, to counteract what I hope are isolated cases but a tendency that worries me and frightens me that I have detected in the recent past.

In the spirit of trying to be positive if we try to look at some of the things that we ought to be doing to improve the unemployment situation and in this respect, and with the greatest of respect to the Minister, I detect a negative approach from the Minister in questions of tackling unemployment. I first detected this in his address to the conference of the Transport and General Workers' Union earlier on this year, and I gave it not too much importance because I thought there might be a psychological approach to what he was saying but in overall terms the address was very much one of it is a bad situation and it is getting worse and there is very little we can do about it. As I say, I did not attach a lot of importance to it at the time because I thought it might be the circumstances of a particular event in which he was making the address. But I made a note when he was speaking today about something that he said and I may have copied the odd word wrong. At one stage in the speeches today he said, "All we can do at this stage is look at the vacancies that have come up in the job market and look at what is available today." In that I see almost an admission of lack of forward planning. I see it almost as there is a tendency to look at the situation and try to get over the problem on a day-to-day basis. I put it to the Minister that the problem needs much more far sightedness than that sort of approach. I thought we were getting this last year. In his contribution last year to this House the Minister was celebrating a newly found spirit of cooperation between Government and the unions and businesses. Admittedly this was post a hunger strike and a petition of 10,500 signatures from the Union, but agreement had been established for an employment forum, a partnership between Government and between the employers and the unions and there was, justifiably I thought at the time, optimism on the part of the Minister on this as the way forward in order to solve the employment problem. What do we hear today, Mr Speaker? We hear that it was unsuccessful. Again I quote the words from the Minister "unsuccessful" and "there was talk but little action" and just under a year

we have seen effectively no results. I do not know how many meetings were actually held but the lack of results speak for themselves. Now, arising out of new initiatives further committees have been set up but only three days ago we see a press release in the Chronicle and I quote from the Gibraltar Trades Council saying "As a council we feel that this delay....." and the delay is in getting the first meeting of the Employment and Training Committee off the ground "is not in Gibraltar's best interests, especially when further MOD announcements and job losses will be made shortly. Furthermore, the council does not know what study is being produced to take into account the impact that these job losses will have on the local economy". I find it difficult to understand that on a matter as important and as urgent as this, which the Minister rightly called, and I agreed that at the beginning of my contribution, Gibraltar's greatest social evil that the Government is not attaching the urgency, the importance that it deserves and has not got this meeting off the ground and has delayed to the extent that it has needed a public announcement from the Gibraltar Trades Council urging them into action. I fail to see why this should be so and I cannot but link it to my overall impression of a negative approach from the Government. In this respect I stress once again that there is a great need for the Government to give a much greater priority to reducing unemployment and to tackling the problems of job creation, training and re-training. I am glad to see that earlier on today the Chief Minister expressed, as an item of policy of the Government from today onwards, that this would indeed be a top priority of Government policy to give greater priority to reducing unemployment.

HON J MOSS:

If the hon Member will give way. I do not wish to interrupt but I thought I should mention that the Member really is making this part of his contribution almost conditional on the negative attitude which I may seem to have given off and has quoted almost verbatim certain words I used. I thought I was differentiating during my contribution between those employment opportunities which already exist in Gibraltar and which I went on to add should in themselves be sufficient to eliminate the problem of local unemployment and any new employment opportunities from any new investment or any new industries which might set up in Gibraltar. The remark which the hon Member has quoted was, in effect, related to the employment situation, the job market, as it stands today, not that I was in any way doubting the possibility that there might be of attracting new investment and new types of jobs into Gibraltar.

HON LT COL BRITTO:

The point is taken, Mr Speaker, but other Government Members have also made the point of the difficulty of matching people to jobs and in that sense it is what I mean about the forward planning of having to create more jobs than there are unemployed because one cannot simply say "I have 10 people unemployed if I create 10 jobs I solve the unemployment problem". One will probably need 15 or 18 in order to be able to fit people into the jobs. To carry on on what I was saying, on the question of priority and job creation and training and retraining, I read with interest in today's press of the opening of the Europa Business Centre, something that has been done partly with EC funding and therefore has been an event important enough to warrant the Minister for Industry in UK, the Rt Hon Timothy Sainsbury, coming out to Gibraltar. I have to take the Minister for Trade and Industry to task on this occasion for what I can only term lack of courtesy on the part of the Government in not considering it appropriate to invite any member of the Opposition, be it the Leader or the spokesman on trade and industry or even the spokesman on employment to the opening of the Europa Business Centre or indeed to familiarise ourselves with what was on offer and what is available. Invitations to cocktail parties to meet the Minister are all very well but that is not what Opposition Members are interested. We are interested in making a positive contribution and that contribution can only be made if one is aware of the facts. As it is I fully accept that I could today be criticising the Government unfairly because some of what I am saying may well already be being done in the European Business Centre but if I do so, I do so in ignorance and in ignorance the point I am making is the fault of the Government for not making what has been made available to members of the public. One looks at the photograph of the people who attended, members of the public have not been made available to Opposition Members. I must say once again that I find the Government's attitude regrettable if this has been done deliberately as a matter of policy. I would also like to urge the better use of EC funding in the fight to combat unemployment. At this time last year again the Minister for Employment told us about the Return-to-Work Scheme and the use of EC funding supplemented by Government funding to do this. We, the Opposition, have already shown our disquiet with the way this funding is being used because of the amount of complaints that we have heard either at individual members or publicly in the press and we would like to be reassured that this funding is being used to the best effect and that we do not have the situation where there are public complaints by the participants or indeed where

we have the situation that we had just before Easter where one of the schemes came to a halt apparently without the participants having been given adequate notice. I appreciate that in answers to questions we were told that this sort of thing would not happen in future and the point is that it has happened in the past and if there is going to be further EC funding we would like to be assured that this is being used in the best way to combat unemployment.

Coming now to the voluntary repatriation of the Moroccan workers, the Opposition thought that the Government would maximise this as much as possible to fill up the jobs that were becoming vacant with jobs for Gibraltarians. We appreciate that it is not Government policy to do so in every case and instead they have declared the policy of using existing workforce where possible or to contract out some of the services previously being carried out by the Moroccans. I have to say that where this practice - questionable as it is but not being in full possession of all the facts it is impossible for me to say whether it is totally right or totally wrong - certainly becomes unacceptable is where, as we saw recently in the refurbishing of Queensway where the Government were to bring in a Spanish company to do the resurfacing of Queensway and where the Government were to bring Spanish companies to do work that was previously being done by the Moroccans and is now not available to be done and instead of being given to Gibraltarians is given out on contract to foreign companies. That, we would find totally unacceptable. Mr Speaker to end my contribution on employment, on a positive note, I would like to highlight some aspects of how we see the GSD tackling the unemployment problem, and in brief detail, because I did give in much greater detail last year, highlight what we would try to do. We would see, first of all, a package of incentives on concessions aimed specifically at job creation, something that we have not seen in the overall sense so far. We think that there is a radical need to start a campaign of training and retraining to give Gibraltarians the chance to be better placed and better qualified to take more of the jobs in our areas of economic activity. There is some movement in that direction but we think that this needs to be given a greater priority and greater emphasis. We think that there is a need to take steps, together with experts in the field of education, to make sure that our schoolchildren are prepared for the job market situation that they are going to find when they leave school, especially those schoolchildren who are not going on to UK for further education and to prepare them better for those jobs when they leave school than is happening at the moment. We would like to see, and this is the point I was making about the Europa Business Centre, the

establishment of a training centre and we would like to see more accent on the traditional skills which, so far, it is Government policy not to do and we feel that in the long term this is wrong because eventually we are going to have to rely on those traditional skills from people from outside if those that have them now are not replaced by younger people learning them currently to what is happening at the moment. Finally, we would like to see the encouragement and the protection of local businesses and not allow them to be squeezed out as we have seen in the past on more than one occasion as has happened by the concentration of Government work in the hands of a few mainly overseas or joint venture companies. We feel that those who are on the market need to be protected and need to be looked after. Finally, Mr Speaker, to conclude my contribution on employment, I think there is a need to send out to employers in Gibraltar a joint signal, an agreed signal from this House of Assembly of support from the Opposition for the Government on the question of finding practical ways of giving priority of employment to Gibraltarians. I fully appreciate the difficulties of the Government in laying down policy on doing this because of restrictions of EC Regulations. But those restrictions do not apply directly to the employer - they apply to the Government but not to the employers - who is the one who has to make the final decision and the indications that we have had earlier on today and we have had in the past from Government Members is that employers are not bending over backwards to give that priority to Gibraltarians and, if anything, in some cases the opposite is happening. We need to give that message of support from this House, jointly, to employers that they have a moral obligation in the circumstances of Gibraltar and in the furtherance of the interests of their own businesses to give that priority to Gibraltarians. If that needs instituting or thinking out or working out a package of incentives or concessions, if that means working something out directly affecting the businesses so that the system of concessions and incentives favours those who are good employers and penalises those who are bad employers, then so be it. There may be a need to go down that road if self-regulatory means or self-encouragement means are not working. What I want to put out today is that clear signal from the Opposition that the Government have our full support on finding ways of giving priority of work for Gibraltarians.

Mr Speaker, on the final part of my contribution I was tempted to call it another pot-pourri of Government services but I think the phrase has been over used today so I shall avoid doing it. Again, I was tempted to criticise the Minister for Government Services for his contribution because of the little amount of substance that there was in it with reference to his own

departments but on reflection I realise that because of personal circumstances that he has been away from Gibraltar for a considerable amount of time of late, so I will avoid the temptation of doing so. I will also avoid the temptation of congratulating him for the very good party political broadcast that he gave us instead of talking about his departments. Be that as it may, I do not have the same excuses so I need to look at the activities and actions of some of those Government departments. I would like first of all to quote once again from the Hansard of last year on the subject of GBC where the Minister was telling us, "That 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". He also said, "I would also like to stress on this issue that the deadline of 1st June for proposals to be submitted to the Government has been made and this is 1st June 1993." We are now in May 1994 and the situation of GBC still has not been solved. It goes back beyond last year. It goes back to a number of years. It goes back prior to 1992 when the Minister first announced a hands-on position with regard to GBC when he said publicly in an interview on GBC television that he would solve the problem of GBC within six months. I cannot remember the exact date but it was certainly in the time of the AACR administration so it must have been before 1992. The situation at GBC has gone beyond a joke. It needs to be solved. Only today we see an interview with the chairman of the GBC board in the Chronicle giving indications for possible solutions and within hours there are reports of reaction from the staff side of GBC on the news at lunchtime saying that they have not been consulted and they are not aware of these proposals and they are against redundancies that the chairman is mentioning. Obviously, once again, the thing is very much in the air. No one in the Opposition wants GBC to close down. I believe that that is still, in principle, the intention of the Government but the way things are going, unless the Government take some action, GBC is going to collapse on its own two feet. I would like to make one strong item of criticism on the Government's policy on GBC and that is the self-declared policy of last year that GBC had to behave like any other Government department and, as such, the subvention would be pegged at £570,000. All other Government departments do not have their subventions, if I may call it that although it is the wrong word, from the Government pegged from year to year. The Government may have a policy of keeping expenses down in Government departments and may restrict the recurrent expenditure of Government department but every year there is an increase in the salaries and wages of the personnel of those Government departments. In the case of GBC, Government is not doing that. The Government is expecting the subvention to

remain static and for GBC to finance any increases in wages to which it is entitled like all other members in "Government services" or to finance it by other means. If the Government were going to apply the same criteria to GBC as to other Government departments then by all means restrict the subvention but subsidise the increases of wages to which they are entitled by agreement with the Government.

On the question of rubbish collection and disposal, Mr Speaker, it is obvious from answers to questions earlier on in this meeting of the House that the Government have gone down the road of centralised collection of refuse and doing away, wherever it can, with the traditional door-to-door service. That is a matter of policy for the Government. It does not matter whether we agree or do not agree with it, what we have to say is that without doubt it represents a lowering of the standard of that Government service. Be that as it may, if the Government intend to carry on on that road and to do the centralised collection then they are going about it the wrong way. The containers that they are using are too small and they do not have the adequate covers. If that is the way the Government are going, there is a need for these containers to be emptied more frequently than once a day. There is a need for these containers to be put in enclosed areas or covered up areas because the situation we have at the moment is one that is totally unacceptable especially in the forthcoming summer months. Containers are filled up by the public and by shopkeepers during the course of the day and the smell emanating from them is unbearable in some cases, it is disgusting, it is unhygienic, it is bad for our image for people who visit us and it is, in one word, totally wrong. Government need, if they are going to carry on this policy of centralised collection, to think of a better way of doing it, need to cover up these containers, need to empty them more frequently. Whilst on this matter of rubbish collection, I would like to draw the attention of the House to the way the cost of collection and disposal of refuse has risen since 1988. In the actual turnout for the years 1986/87, just before this Government came into power, the cost of the collection of refuse was £458,778. This year it is estimated to be £1 million - well over double the cost in the short period of time. But what is more worrying is the cost of the disposal of refuse which in that same period has gone up from approximately £370,000 to a projected figure this year of £1.4 million. This is from 1986/87 to 1994/95. I think the Government need to look at seriously why the cost of collection and disposal of refuse is rising so drastically and to take remedial action if indeed remedial action is necessary. We appreciate, in the Opposition, that the capital cost of putting up the

refuse incinerator was not gone into by the Government but it is one thing for the Government not to have had the capital investment but another thing for them now to be finding themselves in a situation where the cost of disposal is rising so dramatically on a year by year basis.

On the telephone service, Mr Speaker, a lot was made by the Opposition at question time on the cost of international calls so I will just, for the record, reiterate what we have said that the cost of international calls from Gibraltar outwards are about double the price of, say, calls from the UK into Gibraltar. Even taking into account explanations given by the Minister for Government Services about Gibraltar being smaller and the overall costs and overheads being proportionally larger than in larger countries, we still think that double the cost is far too much and we would be pressing the Government for more details of the results of the investigations in the future when this investigation is carried out.

On the electricity undertaking, Mr Speaker, I will once again quote the Hon Juan Carlos Perez last year when he said, I am quoting from page 81 of the Hansard of the last budget debate, "The billing process established by Lyonnaise des Eaux has now been regularised and awareness of customer needs and service to users generally has improved tremendously". I have been in contact with the company. I know they are working still to improve the services of billing but let me say that today one year later that the results of those billing efforts are far from satisfactory. Once again I highlighted at question time the many complaints the Opposition receive from members of the public about lack of regular billing and in fact immediately after the meeting a case close to myself was brought to my notice where the person concerned had not been billed for electricity since August of last year and the next bill received was in March of this year. I am assured directly by the company that they are making efforts to regularise this because of the computerising of the system and a new equipment involved but I stress the point that even last year the Minister was saying that it was going to happen. In fact, he was implying that it has already happened, but it has taken a year. It still is not satisfactory and that we hold the Government responsible to make sure that the company gets its house in order and bills customers regularly and avoids the hardship and the difficulties that it causes to individual customers when such bills do not appear for months and then suddenly large amounts outstanding appear through the mail.

My next point, Mr Speaker, is on clamping and it is a perennial problem that we highlight in this House, usually at Budget time, but sometimes at question time, and which I cannot let the occasion pass without reiterating. I stress, for the record that clamping, at the end of the day, is a police responsibility and that it is the responsibility of the Commissioner of Police. There are more than one instance that has been brought to my notice where, when people complain about obstruction or about being clamped, individual constables tend to take the attitude that it is, "no concern of ours, it is a GSSL problem, go and talk to GSSL". Let us be clear about it, clamping is a police responsibility which the Commissioner of Police delegates to GSSL but which GSSL carries out under the directives and responsibilities of the police and the police should always be aware that this is so. It raises the interesting points but I shall not delve in any great detail and if it is a police responsibility then eventually a Governor's responsibility as opposed to a Government responsibility but I leave that for other people to think about. Mr Speaker, there are still complaints about the way clamping is being done and I would like to highlight what these complaints are. The main one appears to be about areas which are designated litter control areas and in which, on certain days of the week for a period of 2 to 3 hours there is no parking designated. Although this is known to members of the public, what to me is unacceptable and totally against the spirit of the way clamping should be carried out, is that reports that I hear of an area being cleared by motorists - and I am not talking about the motorist who forgets to move his car or does not know about his car having to be moved and is clamped because it is there at 9 o'clock in the morning when the area has to be cleaned between 9 o'clock and 12 o'clock, then comes back post the area being cleaned and parks at, say, half past eleven or quarter to twelve when the area has obviously been cleaned and the cleaners have gone away and the vehicle is clamped on the spot within 20 minutes of the limiting time. Legally, it may be correct, morally it is wrong and what is wrong is that the time span allowed for cleaning is far too long. The Government need to look at those time spans more closely and to identify what is the reasonable time needed for cleaning. At the moment it seems to me from the reports that I hear, that the whole way clamping is being carried out is an exercise in raising money and nothing else. It is that a car that is clamped at quarter to twelve after the area has been finished cleaning at eleven o'clock, within 15 minutes of the closing time, is inexcusable. If it is happening steps should be taken so that it does not happen. If it is taking too long to clean the areas then the time should be shortened. The second problem that arises is in those areas that are not

designated litter control areas that are, for example, Line Wall Road or certain areas of Queensway where overnight all of a sudden - we have had this discussion in this House before - notices appear saying "No Parking here as from tomorrow morning" or 24 hours' notice or 48 hours' notice and there has been discussion on how much such notice should be. Once again, in an area that is normally parking for a notice to go up and at 24 hours' notice an owner has not happened to pass by and seen those notices, and has not moved his car for his car to be clamped and towed away, again legally may be right but morally is totally wrong. The Government should look at the system and there is a very easy answer. That is to go back to the system that there was prior to GSSL coming into existence. Invariably these areas are small ones, invariably we are talking about 20 or 30 cars and what used to happen as some members of the Government know - the Attorney General was probably not here - was that the police used to telephone the owners of those cars in areas which had to be cleared, be it for ceremonial purposes, or indeed for street cleaning, and owners of those cars were given adequate warning. I strongly urge, to avoid abuses, Government to go back to that sort of practice. My final point on clamping, at the risk of repeating someone with much closer connections to the above than myself, is to highlight the trap that there is in some areas of Gibraltar, but specifically in Main Street, for the unwary tourist who comes in before 9 o'clock and sees a whole line of cars parked all the length of Main Street and quite unwittingly and quite innocently parks in Main Street where I put it to Government Members the signs if not disguised are certainly far from visible. There is no yellow line on Main Street showing restriction of parking and those parking signs there - I have not checked the legal requirement - but I suspect that the small 'No Parking' signs, 'No Waiting' signs and the distance between some of them in some areas of Main Street can hardly be legal because of their size and because of the distance between them. Tourists are being caught in that trap on a daily basis. I see it myself and as was said from the pulpit this Sunday it is hardly an encouragement to a tourist to come again to Gibraltar if he parks where he thinks he is perfectly allowed to park and finds that he is clamped and towed away.

Mr Speaker, to wind up, I would like to deal very briefly with the Fire Brigade to make the comments that it is nice to be able to congratulate someone once in a while from the Opposition. Not very often one is able to do that for the Government but it is nice to be able to congratulate a Government department like the Fire Brigade for consistently, in all the years that I have been in this House, producing excellent estimates of

expenditure, excellent from year to year, excellent record for sticking to its estimates and controlling expenditure with, of course, exceptions which are unavoidable from time to time like the uniform item that has been highlighted. The excellent record for maintaining its estimates and producing its estimates. I would like to take this opportunity to ask the Minister for Government Services who has so very kindly just walked in what is the Government's policy on the question of fire extinguishers which were installed in Government housing some years back. [THE HON J C PEREZ: That is a matter for the Minister for Housing, not the Minister for Government Services.] Mr Speaker, I shall extend my question to both the Minister for Housing and also the Minister for Government Services to share the question between them. In fact, I do not know whether they are aware of it but Government housing was supplied some years back, before this Government came into power, with fire extinguishers by the Fire Brigade. Each Government house was given a fire extinguisher. I would like to question the Government on whether their policy is simply to forget about it because it was done by a previous administration and they know nothing about it and they do not care and if that is not their policy then whether it is their policy to maintain those fire extinguishers, whether there is record of where those fire extinguishers are, whether indeed they still exist, whether they have been kept in working order because, if I remember rightly, it was made an obligation at the time that Government housing have fire extinguishers.

Finally, Mr Speaker, I would like to end on the note that I end every year and that is to have a look at the Government lottery. In addition to making the usual point that I make every year on the heavy reliance of the Government on unclaimed prizes during the year to make a profit in the lottery, I think I will go slightly further this year and say, having said that that is still the case this year, once again if in any given year the Government's optimism on its luck fails to materialise and they do not keep in the bag, as it were, as many prizes as they hoped to keep because tickets are unsold, one of these years if that goes wrong the lottery is going to make a loss. But the main point I want to make this year is to make a comparison of the financial aspects of the lottery as it was in 1988 and what and how it is now in 1994. I would just like to highlight some things. In 1988 the sales of tickets amounted to £3.3 million. In 1994 this has virtually doubled to £6.1 million. The prizes of the lottery in 1988 was £2.4 million and this has more than doubled this year to £5.1

million. However, in that same period the Government share of the profits that they transferred to the Consolidated Fund, has risen and I have to change my note, because my original notes said had fallen but I bow to the amendment announced by the Minister earlier on today. It has risen very slightly from £560,000 approximately in 1988 to £660,000 in 1994. An increase of a mere £100,000 where the sales of tickets have gone up by £2.7 million. I make the point that I have made every year that Government and the taxpayer as a whole could be benefitting more from the lottery. Whenever I have raised this point the Minister tells me that the lottery agents are happy and that people are happy. I put it to the Minister that the only people who can be happy are the small minority who wins prizes because those have gone up and the lottery agents themselves, because the lottery agents, their selling commission in this same period has gone up and this is a minority of people the lottery agents' selling commission on tickets has gone up from £198,000 to £626,000 and of course they are happy. They are doing half the work for much more of the money because tickets are now sold once every two weeks instead of on a weekly basis. I put it to the Minister that the general public are less happy, that the feedback that I get is that with better management the people of Gibraltar as a whole should benefit more from the lottery by a greater share of the profits than they have been doing up to now. Secondly, the feedback that I have is that the public still want a weekly draw, that the incidence of a draw every two weeks is not to most people's satisfaction, that people get out of the habit of buying the lottery and they would prefer to have it on a weekly basis. The feedback that I get from the lottery sub-agents is that what they would like in order to get something on the basis of a daily prize if not in the region of the weekly prize but certainly something to encourage people to buy their weekly lottery but get something for it on a daily basis which keeps people aware and would make them buy more tickets and avoid the very large incidence of returned unsold tickets the lottery has at the moment. Finally, Mr Speaker, I will make the point that the Minister has on more than one occasion told me that he is listening to what the lottery agents are saying but the impression that I get is that he is listening to the main committee of lottery agents and not to the feedback of the sub-agents who are the ones who are dealing directly with the members of the public where it seems to me that the information that is coming to me is different to the information that seems to be coming to the Minister. I will give way.

HON J C PEREZ:

I shall reply to him at the Committee Stage.

HON LT COL E M BRITTO

In that case, Mr Speaker, that brings me to the end of my contribution in this year's debate.

HON M FEETHAM:

Mr Speaker, I suppose that I could take the line of repeating virtually everything I have said since 1992 when the Opposition Members were elected and the second part even all the questions that have been asked when we have gone into semi-debates on the answer to the questions sessions and nothing is really going to alter the events in any shape because we give explanations time and time again to the line of questioning from Opposition Members. If we look at the record since they have come into office we have given hundreds of explanations particularly the Chief Minister on issues of accountability and so on and so forth and yet it does not really matter because they keep bringing up the same subject time and time again. Of course, it is a matter of political judgement why they do it. They feel that by continuing to repeat things the electorate will be impressed or even accepting their arguments and that is going to have an effect when they present themselves in 1996 as the possible alternative government and I can accept all that. But quite frankly, having repeated so many times the position of the Government on so many issues, I am not going to spend the time today in saying all the things that I have said previously. I think it is a waste of time to the House and I think certainly at 8.20 pm I think it is a waste of time for everybody. I do not think we have got to convince anybody. Whoever is going to vote for them will vote for them and whoever is going to vote for us will vote for us at the end of the day but I would like to spend a few minutes, because that is all I am going to take, in saying one or two things about what hon Members have said which border on new issues and speak to the House about new events that have occurred since the last time we entered this sort of debate. I would like to start off by giving some advice to the man of the moment which undoubtedly is the Hon Peter Cumming. I am not going to stand here and criticise him, telling him what he has to do, trying to shift him from his position because he is a mature person with a certain level of intelligence and knows exactly what he is saying and the effects of what he said on the people of Gibraltar and more important still on Spanish public opinion. It is really a matter of judgement and it is really a matter of conscience on his side but the

advice that I want to give the Hon Mr Cumming is not to be influenced by people that are nameless; who are undoubtedly are talking to him because I know what will happen. I talk of course from many years in public life and from many bitter experiences that I have had and I recall in 1968 when a group called The Doves, for example, came out with very, very controversial issues and were taken to task on that and a lot of people were influenced by what was being said by one side or another and this led to an influence on a mass of people who actually did on 6 April 1968 something that I think Gibraltar has regretted ever since. I do not think the events of those days in any way should have occurred but nevertheless people were influenced in a particular direction or in another direction and the result was that something fairly disastrous for Gibraltar but two things happened. First of all, the people that suffered directly were the people that created the controversy. The Doves and their families and the mass of people that were influenced, that led to convictions and led to be classified in the House of Commons as hooligans and yet during all that day when people were going out in the street they were being edged on to do what was happening. So I advise the Hon Mr Cumming one thing - by all means he should say what he has to say, should do what he has to do, but he should get political support before he does what he wants to do because that would be the ethical way of doing it. I take him to task on that but please he should not be used by anybody and I am not talking about the Spanish connection because we know what the Spanish connections are by bitter experience over many years but by the internal connection; that silent group of faceless people that for one reason or another take opportunities of using individuals and leading them on and when they hit themselves against the wall and have the disastrous effect they abandon the boat and never speak to them ever again. So I say to the Hon Mr Cumming, "Be careful about the line of action that you are taking and the people that you have around you today. Get them out in the open, that is the way to do things. Do not be used." That is my advice, I am not going to stop him from saying what he has to say but I am going to just reply to him on one or two comments he made. He is honestly convinced for some reason, I am not sure from what source it comes, that by us being benevolent, by us opening our hearts out to Spain, that there is going to be an equivalent response. He actually quoted Solana's remarks to the Foreign Affairs Committee and so on and so forth and I think he used the word about pardon and conciliation. Again I speak from personal experience of many, many years in this. I remember and I think there are other Government Members and indeed a lot of other people in Gibraltar, that when there were people imprisoned in Spain from Comisiones Obreras and UGT and political

leadership, quite a lot of us here every week gave part of our wages for many, many years in support of those people that were fighting for a cause. I always remember what Jack Jones used to say to the Union and to the people of Gibraltar, "Gibraltar is a beacon of democracy and let it shine for evermore because people in Spain will see that Gibraltar is a democratic place and we shall use that as an example". I played my part along with many other Gibraltarians in supporting the Spanish cause and I was absolutely delighted when the PSOE won the election because as a democrat, as a socialist, as a man who fights for civil rights, I expected that there would be an awful lot of understanding of human problems and human relationships by the socialist party in Spain. I was one of those people who made the first contact in Spain even before the frontier opened fully in establishing contacts and brought people like Elena Flores and brought people like Carmona here and so on and so forth. I believed that I was using a great deal of foresight and vision. That is my personal opinion. I know that it certainly affected my possibilities in the 1980 election because of that but I was not worried about not being elected in 1980 because I believed at the time that that is what we had to do and I did it and I hope the Hon Peter Cumming thinks he has to do it and he did it but the realities are that, having established contact and having the frontier opened and the socialist party coming into power and us establishing contact with them, their attitude on foreign affairs quite frankly has not changed one iota. There is a different cosmetic exercise being undertaken but their approach has not honestly changed. It is a major country with such deep cultural build in its history. It is a country which could very easily turn round and say "I am making a gesture towards the Gibraltarians and we would relinquish A, B and C". I thought they could quite easily do it. Does the House know what I was told? "No, because the moment we do that we will lose four million votes". I think that is the problem with the Gibraltar issue in Spain because of so many years of Franco brainwashing. It takes quote a few generations to take away from their mentality of the..... I would say of the part of Spain because not all Spain is in agreement with the centralised policies and thinking of Madrid-led governments. There are regional governments that think very differently but it takes an awful long time. The situation has not changed so it is not a question of pardoning, it is a question of time and understanding and education and so on and so forth. It cannot be imposed on one side or another and the moment one puts down something on a piece of paper where the main people involved are not even consulted and that agreement is imposed because somebody in Whitehall or the Foreign Office thinks knows the Spanish better than the Gibraltarians and we are not even consulted. There is

very little possibility that the Gibraltarians, being the way they are, and understanding the problem as they are, can possibly go along with that. So other people have made mistakes on behalf of the Gibraltarians, not the Gibraltarians. Time will show that the Foreign Office in the UK have made the mistakes that have put us in the position that we are today. It will take time to get us out of it, so I say to the Hon Mr Cumming, "I think that you have got a problem in trying to convince generally the Gibraltarians about changing overnight the situation. It is not as easy and as simple as that so my advice to you is, of course, say what you want to do, be careful who you are speaking to because you could be left on your own and it certainly would not be a very beneficial situation for you, I can see that."

Having said that, the other issue I want to take up with him is that he keeps talking about the tobacco issue and the drugs smuggling issue and so on and so forth. I think that we must do everything possible with the resources that we have and with every resource that is put in our way to fight the problem of drugs at every level. There is no doubt about that. No government is worth its salt if it does not do that but let us not exaggerate the situation. Let us not continue to give arms to Spanish public opinion to legitimise what they want to say about Gibraltar. To talk about £24 million, tomorrow it will be all over AREA because that is the sort of excuse they want. Really if we look at the Ministry for Internal Affairs in Spain and we look at their annual report on drug smuggling into Spain from whole regions and if we look at what is happening in the tobacco trade in Spain and the smuggling that takes place, what happens in relation to Gibraltar is absolutely negligible and even less than that. It does not necessarily follow that people have to agree with what is happening but it is certainly minimal and there is certainly very little in some areas in Spain in the tobacco trade like Galicia, very little action is being taken by the Servicio de Vigilancia in those areas to combat tobacco smuggling because it is sustaining areas in Galicia as far as their economies are concerned. It is not something that is peculiar to Gibraltar. But then I do not understand the Hon Mr Cumming because then he goes on to say that he has heard that La Linea is going to have a declared duty free zone, so he does not understand on the one hand why people come to buy petrol here because Shell and Mobil have opened two petrol stations in La Linea. We all know that, they are on the way to Sotogrande and on the way to Marbella, it is on this side of La Linea, we can see it everyday, we pass through there. He then goes on to say that he has heard in La Linea of this duty free zone and that is very dangerous for Gibraltar. How can he argue against that,

because if we have a duty free zone in La Linea, we have solved the tobacco smuggling into La Linea and into Spain because people will not be buying tobacco here, they will be buying it in the duty free zone in La Linea? Gone is the tobacco problem and gone is the petrol problem.... It will create other problems for us but then of course that is solving the problem. We cannot have bread buttered on both sides. It is a silly comment to make. I am not sure how people in Saccone & Speed and Stagnetto and all those other people would react to that sort of scenario. I have dealt with the Hon Mr Cumming in that area.

As I have said, I am not going to go into the strategy of the Government on the marketing, on the economic development. I have done it so many times before. Everyone has heard it. No doubt the Hon Mr Vasquez will follow me. He will keep reminding me and so on and so forth, that is part of the exercise and we will take it. But I will say this, that in terms of what new may be happening I am of course very pleased that we have set up the Joint Economic Forum. I see that as a positive step forward. For the purpose of public record, the Joint Economic Forum has been set up following agreement between the British Government and the Gibraltar Government, agreed to by the Chief Minister in his recent meetings to examine the current and potential capacity of Gibraltar's economy to become self-sustaining and to coordinate planning and deployment of various sources of advice and funding, especially from the private sector and to consider an impact assessment study of the MOD rundown, notably the effect on employment, land use, Government revenues and demand for utilities. It all sounds, I think the House will agree, wonderful. We have got a terms of reference there that would virtually cover everything. We have agreed to serve in this. We hope it is successful. One thing for sure is we are going to have the British Government as part of the committee, working alongside the Government of Gibraltar. We shall see the results that this will achieve because, at the end of the day, it takes much more than a forum or a committee to produce results. I welcome this. I obviously represent the Government of Gibraltar on that and I hope it is successful. I would certainly totally commit myself as far as the Government involvement is, to make this as successful as possible. I expect the other side to be delivering on some of the issues because really if to all intents and purposes the British Government is relinquishing all its responsibilities except the Preamble to the Constitution and having virtually left Gibraltar without any economic assistance, they are going to tell us how we should choose whatever we have got to benefit us, I think that we are quite capable at least of doing some of the things. I hope

that they have got a more tangible contribution at that level. I certainly hope so.

One of the things I can inform Opposition Members, and I am sure that they will be interested, is that as a result of the Konver contribution, Touche Ross were approved to do a consultancy study for the Government of Gibraltar on inward investment. The basis for the proposal has already been undertaken and I should think the proposal will come, if not today, in the next few days certainly and if the proposal is accepted we will expect a report to be produced in three to four months' time. [Interruption] The Leader of the Opposition says 'another one'. The answer is yes, another one. If he is not really interested I will not even tell him what the terms of reference are but clearly he does not seem to be interested. I think the Price Waterhouse report cost much more than this one and certainly there was the two Price Waterhouse reports. They are two distinct reports, one was more the financial centre area, this is targetting other possibilities. The terms of reference, if they really want to know about it, is "to identify the strength and weaknesses of the Gibraltar economy with the objective of identifying industrial sectors which are likely to be attracted to Gibraltar as an investment location and to identify target markets with such investments are most likely to emerge taking into account Gibraltar's trade patterns and geo-economic considerations. To identify the selling propositions which Gibraltar has to offer such potential sector investments and to recommend on specific marketing tools. Having examined Gibraltar Government structures, to make recommendations on the need for a specific investment office and how such an office should be staffed and in funding requirements. To identify and advise on the training needs which will be necessary to enable any investment office to efficiently and effectively undertake this work." The Opposition Member said 'another report'. I welcome this possibility, frankly, because I do not think any one of us should be sitting on a high horse and pretend to have all the answers all the time to everything. Quite frankly, there are areas where because we are small, because we lack expertise, because perhaps we have not been familiar in particular areas in terms of examining new business possibilities and what other competitors are doing and so on and so forth, advice and expertise in that area, in my opinion, is certainly welcome by me because I believe that I lack certain qualities in certain areas and certain advice and I hope that some of it comes positive and I can act on it.

Mr Speaker, those are new positions that have taken place since we last spoke in the House on these matters and I

thought that I should say so here. Opposition Members also talked about that my lack of achievements will be shown by my success in bringing manufacturing bases to Gibraltar. If that is the case so be it. If Opposition Members are going to judge what I have done in my years in government on the basis whether we are successful in bringing manufacturing or not it is really a matter for them. My position is that I will endeavour to do so. There are a number of possibilities in the offing and we will see whether we can pull them off. I hope we do, it would be good for us, it would be good for Gibraltar, it would be good for employment but certainly I cannot guarantee that they will happen. I do not think anybody here, or Opposition Members can guarantee anything in the situation that we are and the situation that the world markets are in but we certainly do our best.

Mr Speaker, really I do not want to say much more. People's positions are very, very clear, why waste anybody's time. I do have one thing that the Leader of the Opposition asked me to clarify and that is the latest position on the saga of the shipping registry. Of course the shipping registry as we all know and we all want it is an important industry in the widest context for Gibraltar. Its spin offs are sometimes under-estimated or under-rated. I do not under-rate it, I think it is an important and I can assure him that I have been trying to do my best, politically, to bring this to a successful conclusion. The position, however, is as Opposition Members are aware, the legislation has been approved by the British Government but cannot be proceeded with until there is an agreement on surveying. I can say that it is proving to be very difficult to obtain agreement with the UK on a survey agreement which properly ensures compliance with international obligations which undoubtedly we have to do but at the same time produce a viable shipping registry for Gibraltar. Otherwise, why comply with international obligations if then in the end we do not have a shipping registry.....

HON P CARUANA:

If the Minister will give way. Can he say what the difference of points are, why is there difficulty in reaching the survey agreement?

HON M FEETHAM:

I have already said about the survey agreement but if he wants me to quite frankly say what I think it is, I think it is because of the Surveyor General's Organisation. Everybody protects their own jobs, everybody protects their vested interests, never mind little Gibraltar and whether it prospers or it does not. Having gone commercialised I think they are protecting their own position and their own jobs and I think that it is the Surveyor General's Organisation that have actually put a spanner in the works. [HON P CARUANA: They want to do the survey themselves.] That is right. Yes, that is the position and officially then the position is that we are continuing discussions with UK and I am sorry to tell the House that that matter has not yet been completed. Mr Speaker, I have nothing further to say. Thank you very much.

HON F VASQUEZ:

Mr Speaker, if I might start by commenting on some of the comments the Minister for Trade and Industry made really addressed to the Hon Mr Cumming in which he gave his analysis of the Spanish claim. I can only consider it is a rather naive idea that he had that when the PSOE Government got into power that somehow they would recognise their socialist colleagues on this side and somehow come to some accommodation or they might surrender their claim for sovereignty over this territory. It certainly flies in the face of all the information that was current at the time and in particular I recall the meeting of Sir Alec Douglas Home had at the time with Principe Juan Carlos in the early 1960's when he was shadowing the Foreign Ministry and at the famous meeting that the Prince, as he then was, made it very clear to Sir Alec Douglas Home that although the policy, the infamous one, which Franco was pursuing that Sir Alec Douglas Home should be in no doubt at all that when Franco had gone the policy towards Gibraltar pursued by any democratically-elected government of Spain would be the identical one and certainly I think the Foreign Office was in no doubt as to the depth of the feeling in Spain towards the Gibraltar problem and had held no illusions that the democratisation process in Spain was going to change the position. Those comments were addressed at the Hon Peter Cumming. The only difference between the Government and those Opposition Members other than the Hon Mr Cumming as regards his attitude towards Spain is of course whereas we the GSD do not advocate the making of any sort of concessions to Spain, where we differ with the Government is in our notion that we believe that there is something to be gained and nothing to be lost by indulging in a process of dialogue if

necessary and for want of an alternative under the Brussels process, armed with the reassurances and armed with the restatement of the Preamble to the Constitution contained in that agreement we have nothing to lose by partaking in those talks. Our view is that we must somehow establish a forum for dialogue, dialogue and dialogue, if only to try and get the political establishment which in Spain is frozen in its position for the reasons, and I certainly agree with his analysis, that what all the political parties in Spain are trying to do is that they are afraid of losing votes. Somehow we in Gibraltar must find a way of prising them out of that entrenched position, trying to convince them to look at the problem, to shed a different light on the problem and to adopt a different approach to the problem. My own personal view is that I consider it regrettable that after seven years of PSOE government in Spain and six years of GSLP government in Gibraltar, and the party is identical, a socialist labour party in Spain and a socialist labour party in Gibraltar, that the opportunity for dialogue should have been lost. I really think that the Chief Minister, a man certainly whose ability in any of negotiating points cannot be doubted, I do think there has been a miscalculation on this administration's part not to indulge in that process of dialogue, remembering of course that yet Felipe Gonzalez standing outside No. 10 with Mr John Major talking about the amount of disillusion. One does not know what he had in mind but there is the tiny possibility that something might have been gained by only discussing the problem through the only forum that has been available since 1984, namely the Brussels process. That really is the only difference between that side of the House and this side of the House in respect of the line that the Hon Mr Cumming has taken recently.

Before I turn to the two areas of shadow responsibility that I have, Mr Speaker, which are tourism and trade and industry, I also want to comment briefly on the comments made by the Minister for Social Services, the Hon Robert Mor, at the close of his address. Whereas he alluded to the fact that we have heard so often repeated publicly and in the press that somehow the Leader of the Opposition and myself have compromised our positions because the firm of Triay and Triay has accepted instruction from the Spanish pensioners to represent them in the case brought in the Supreme Court. The Minister made the point that referring to us he said, "The hon Members opposite have a strange concept of upholding principles in a dignified manner" obviously suggesting that we are not upholding our principles and that we are behaving in an undignified manner by either failing to resign from this House or failing to resign our partnerships in the firm of Triay and Triay. I think I

need to reply to that point categorically and for the record. The first point I would like to make in relation to that is that I myself wonder what concept of upholding principles in a dignified manner the Government Members had when they themselves were sitting in these Opposition benches between 1984 and 1988. Supposedly it must be said, as guardians of the interests of Gibraltar and in which period they did all in their power to undermine the government of the day not by the exercise of opposition politics but by the use of the trade union movements to sabotage the government of the day for their own political ends, whatever the consequences to the people of Gibraltar. A trade union movement, incidentally, which in my view, having used as a leg up to power they have proceeded to abandon by imposing what can only be described as quasi-Thatcherite policies of privatisation and contracting out of Government contracts which would immediately - I see the Chief Minister smiling but he knows full well - had the AACR administration attempted to do half the things that he has done over the last six years there would have been all hell to pay from the trade union movement. In my view it is strange that the Government Member sees no conflict in that position but somehow sees that my hon Colleague Mr Caruana and myself had somehow compromised ourselves and are in a position of conflict because the position of Triay and Triay in the pensioners case. The point also, of course, is that in questioning my and Mr Caruana's upholding of our principles in these circumstances, the Minister knows full well that the allegation he is making is completely unfounded. And it is wrong, which I am going to explain carefully now for the record so that the matters rests on Hansard. It is a fundamental ingredient of the freedom of any society that any and every individual must have an unimpeded access to the courts of the land in order to test and defend his legal rights. The Minister may or may not be aware that it is contained in the code of ethics of the Bar, that a barrister may not refuse any particular brief because he considers it either personally or politically distasteful. That is the extent to which our system of law protects the right of the individual of access to the courts. Because otherwise there might be a particularly distasteful case that no lawyer in the land would take. And it is actually unethical for a barrister to refuse instructions on the basis that he disagrees or finds the matter at hand unpleasant or unsavoury. It is not the point, the point is that it is not for lawyer to judge cases, it is for the court to judge cases. Or is the Minister suggesting that the Spanish pensioners should not be allowed access to the court at all in Gibraltar? The Minister may also not be aware that in the past, and I am referring to the late 1960's and early 1970's, there were situations and cases where the Chief Minister, Sir Joshua

Hassan at the time, when the Chief Minister's Chambers and in one case the Chief Minister himself, acted on behalf of the client against the Government of Gibraltar. And at the time nobody raised questions of conflict of interest or compromise of principles because of course, none existed and if the Minister raises the question he raises it, in my view, not because he really thinks that there is any conflict or compromise but because he wants to score more of the cheap political points that have been scored and people have attempted to score against the Hon Mr Caruana and myself in the letter writing campaign which we have seen in the local media recently. The fact is that both the Leader of the Opposition and myself made our position in relation to the Spanish pensions issue clear in this House before the pensioners sought legal representation. Nothing that has happened subsequently, in any way, alters the view of the Opposition or of the Leader of the Opposition or myself as stated in the House in relation to that pensions case. The point is this. If the pensioners feel comfortable with their legal representation despite the publicly stated views of the two members of the firm in this House, then it is a matter for them and it is a nonsense to suggest that somehow we have compromised our principle or that somehow we have a conflict of interest and that is the point that I wish to make for the record on the allegations and the repeated accusation made by the Minister that somehow we had compromised our position. There is no compromise and there is no conflict of interest. We made our position clear and that position remains and those pensioners sought the representation of the firm of which we are partners after we made that position clear and if they are happy with that I am happy with it. I am not changing my position.

Turning then to my true areas of shadow responsibility, Mr Speaker, and starting with tourism and having heard the Minister for Tourism, the Hon Mr Pilcher, give his address and really deal very shortly and very concisely with the whole issue of tourism. In fact he dealt more with his other portfolios. I really have to refer again to some of the points I made in my contribution to this debate last year. The first point I want to make is that in that contribution a year ago I said in this House that it was the Opposition's view that the hotel industry had hit rock bottom, with hotel occupancy hovering at the 35 per cent mark and a total of 300 jobs lost in the sector since 1988 when the GSLP administration came into power. We really thought that matters simply could not get any worse and that it would be a question really of that constituting the bottom of the curve and that subsequently we would see an improvement, if only a small one, in the state of tourism in Gibraltar. Unfortunately, that analysis was wrong because from the

figures that I have in front of me in fact the situation has got even worse subsequently and I know and I accept that the Minister has said that the figures are looking better. I grant certainly that there have been more liner arrivals but in terms of the tourists that the hotels stay, the tourist industry in Gibraltar, matters have got even worse. The last figures I have available are the hotel occupancy survey of 1992 and I do not think there have been any issues subsequently and the Minister said that in fact the figures had got better. They have not got better. Percentage occupancy in 1991 which are the figures I referred to last year in this address, was 35.5 per cent, in 1992 it was 31.6 per cent. It was four per cent lower. The number of sleeper nights sold in Gibraltar in 1992 was 156,000, 22,000 less than the previous year. So the fact is that over this last year, with the figures that we have available, which is up to 1992, the situation has actually got worse. The figures that we now have for 1992 and the Minister can find these figures at page 21 of the last hotel occupancy survey, are in fact the worst figures to have appeared since records began in 1968. In the last 26 years there has never been an administration with a record as appalling as this one on the question of the tourism industry. To put the matter into perspective in the six years between 1988 and 1992 in which the GSLP were in power, the number of sleeper nights sold per annum dropped from 286,000 to 156,000, that is a fall of almost 50 per cent. The occupancy rate in the average, in our hotels, fell from 52 per cent to 31 per cent. A continued mark every year over the last six years of GSLP administration, those figures have got worse. I am referring exclusively, I accept that fortunately, and I refer to this we can rely on the shopping tourists, the liner arrival figures, have gone up and down, recently they have gone up again. That is not so bad but as it were the backstay of the industry, the question of the hotel industry, the figures have never been worse. It is impossible and I cannot comment on how many more jobs have been lost. We know from the Employment Survey that 300 jobs were lost between 1988 and 1991 in the sector. We do not know if any further jobs have been lost between 1991 and 1992. I find myself having to repeat the message I put to the Minister last year that Gibraltar, in effect, no longer has an overnight stay tourist industry. It is impossible to say. It is 31 per cent. What we have is hotels that cater for people that happen to come coincidentally to stay in Gibraltar whether they be business or people passing through or transit passengers or whatever. We have simply lost the old traditional hotel trade of Gibraltar where people actually used to come to Gibraltar as a hotel destination and stay in our hotels. The indifference, I have to say of this administration to the whole tourist industry is manifest. We see, and the

Minister himself has said so, that we have a Minister whose portfolio still includes tourism, although we no longer have a department of tourism. In fact, I am referring to the extract from Hansard of last year when we referred to the old AACR Ministry of Tourism, the Minister actually boasted, I know we have come a long way since then, we have developed since then, we no longer have a Ministry for Tourism. The record speaks for itself. There has been no progress. What has happened has been the dismantling of the industry in Gibraltar and I do not consider that to be progress of any sort. The Minister, by his own admission, no longer dictates the policy. He leaves it in the hands of the local industry and the Minister no longer has a ministry, no longer has a department through which to implement a government policy on the matter of tourism. What we have is a budget, there is an allocation, out of the Improvement and Development Fund and as a subvention under the Secretariat fund totalling £686,000, all told, which covers everything from the marketing of Gibraltar to the planting of flowers; presumably it covers the whole lot. Under the Improvement and Development Fund the subvention is for certain environmental and touristic works. The result of all this is that there is a totally unfocussed, unplanned and uncoordinated tourist product in Gibraltar. As I said, fortunately for us, we are blessed with a happy location, with a good port and an airport and a shopping centre of some repute, as a result of which people, fortunately for Gibraltar, still come to Gibraltar to do their shopping, to stop in liners etc. I think that is simply coincidental. I do not think it is thanks to anything this Government have done. People are always going to come to Gibraltar and I do not see anything that this Government has done to attract people to Gibraltar, certainly the policy that they could have followed to attract overnight stay tourists has been a complete failure. In my address in this debate this time last year, I outlined the tourist policy that the GSD administration would adopt and I will not repeat that to make clear where we think this administration has gone wrong in relation to the tourist product. First the industry needs to be prioritised and that needs the re-establishment of the ministry and the coordination of government ministers to put together the tourist product in Gibraltar, to get the product in order in Gibraltar. Secondly, we need a rationalisation of the marketing to get rid of the ill-defined and unanswerable companies, the GIB office, the GTA UK office etc. The Minister for Tourism has to adopt political and practical responsibilities for the servicing of the product. Thirdly, we have to advertise Gibraltar as a destination properly as the Gibraltar Tourist Office used to in the old days of the AACR and as it did very successfully. That needs the allocation of a proper marketing budget

and identification of a certain amount of market research and identification of the niche markets that we need to develop and to take advantage of to draw tourists to Gibraltar. Finally, we need to sort out the delivery of the service in Gibraltar. We need to impose licensing and impose standards. We need to initiate some form of planning for nightlife, for pedestrianisation of certain areas, for the creation of bars and cafes, to clean up our beaches and to educate the local industry to provide a proper tourist service. Something which the local tourist ministry should administer in the way that other holiday destinations do. There is no reason at all why Gibraltar should not be a flourishing destination within the tourist industry as it used to be in the 1960s and early 1970s and in fact more recently. When we put our minds to it the fact is we know how to do it. Only the other day I was speaking to the Minister for Sport who was saying what a popular destination Gibraltar was becoming for sporting fixtures. We have seen the recent international hockey tournament coming, we have got the Island Games, we had the recent conference on basketball, we have got football and cricket teams that come to Gibraltar regularly and I can say full marks to the Minister for Sport for actually managing to attract sporting teams to Gibraltar. That really is one of the only aspects of tourism that we have managed to foster in Gibraltar. My question is, what is the Minister of Tourism himself doing to get visitors to stay here? What steps is he taking to market Gibraltar as a specific interest destination? For example, we have said it so many times, a destination for overnight stay tourists interested in Gibraltar's history, in military veterans, in people interested in sailing, in the sea life around Gibraltar, birdwatchers, whatever. What efforts are being made to direct the marketing of this destination as a holiday resort to those niche markets? That is the first point, the second point is what steps is he actively taking to improve the general state and condition of the product here? What is clear, from the Estimates that we have in front of us, is that this administration have given no priority and no resources to the sorting out of the infrastructure of the day-to-day street level infrastructure of Gibraltar which visitors to Gibraltar have their first contact in Gibraltar with. I know that he is going to reply. Yes, we have seen various isolated spots in Gibraltar and I accept that there has been isolated beautification. We have had the Alameda Gardens, obviously, a shining example of something that can be achieved and full marks to Government for that, because the Alameda Gardens are looking first class. We have various isolated garden areas that have been improved by Green Arc, fine, but that unfortunately.... [Interruption] I am giving credit to this administration and to the Minister for doing that much but the fact is

that the overall impression that the visitor to Gibraltar acquires when coming to Gibraltar is still not altered. They do not, in my submission, clean up an untidy mess by putting a vase of flowers in the middle of it and unfortunately the impression that Gibraltar presents to the visitor is still an appalling one. It is of a run-down, shabby and demoralised community and, to a great extent, it is embarrassing to the citizens of Gibraltar. One can just spill out a list of the matters that need attention. To begin with the state of our roads is a scandal. We in Gibraltar are some of the highest taxpayers in Europe. We pay rates, we pay road tax and yet the condition of our roads deteriorates from year to year and it is our roads that causes one of the most immediate impressions to the visitors to Gibraltar. The street infrastructure is run-down and shabby, from broken street slabs to unpainted fences and walls, broken crash barriers, dirty traffic cones and barriers, even the frontier gates have not been spruced up for a long time. Our streets, it appears from an answer given by the Minister for Tourism recently in this House, are flushed once every six weeks. That cannot be satisfactory especially in the summer and it is not all our streets, some of our streets, 13 of our areas apparently are flushed once every six weeks. The litter situation, where no effort has been made, they have not been sufficiently successful in cleaning up the whole impression that our streets give to the tourist. When, for example, has anyone tried or attempted to scrape up the chewing gum that is stuck all over our streets and our pavements all over Gibraltar. Europa Point, which is one of our prime tourist sites in Gibraltar, being the southernmost tip of Europe looks like a bomb site. There are derelict buildings, broken lavatories, broken fences. It is quite shaming to see tourists arrive at that site to see the sort of impression that the site makes to them. The east side also looks like some abandoned industrial estate. Our beaches, the reclamation, there have been no attempts to tidy up and clean up the reclamation on the east side. The general impression, as I have said, that Gibraltar presents despite those isolated areas of gardens and sprucing up that has been done, the general impression is one of a shabby, run down, demoralised town. What it requires is the expenditure, the commitment, both financial and in terms of effort to the cleaning up and the tidying up of the community as a whole. Not only for the sake of the tourist industry but almost for the sake of self-esteem of this community itself. One only has to look at Marbella for example to see what an aggressive approach, what somebody like Mr Gil, who the Chief Minister has met on more than one occasion, when he sets his mind to it what an aggressive and enthusiastic approach to the problem can achieve. Clearly, these are all matters that need to be addressed to re-establish

Gibraltar as a proper holiday destination, to win back some of the 300 jobs that have been lost in the sector since 1988. We must prioritise the tourist industry. One gets the impression almost that somehow this administration have never taken tourism seriously and consider that there is something almost demeaning or servile about a community offering itself as a tourist destination. I think the Minister needs to be reminded that all sophisticated countries, the USA, France, Great Britain all spring to mind, have important tourist industries and that there is nothing in the least demeaning or servile about offering oneself as a tourist destination and arranging a product and sorting matters out locally to offer a pleasant, clean, vibrant, attractive destination for our visitors. I hope, that this time next year the Minister will be in a position to give us information as to the progress that has been made in relation to this. I have to conclude and unfortunately my impression from looking at the Estimates for the coming year is that there is little hope of that, there is little commitment on the part of this Government to attract the tourist product in any meaningful, significant way and that as a result we are going to see a continuing decline of the fortunes of our tourist industry.

Turning to the matter of trade and industry and having heard the Minister for Trade and Industry's short comments on his Ministry a few minutes' ago, let me just make my own comments on the performance of that Ministry over the last year. The Chief Minister said last year, when he announced in this debate the ministerial reshuffle, that the main emphasis of the Department of Trade and Industry was to work on the external promotion of Gibraltar, the bringing in of new activities to Gibraltar and new investments. Of course that constitutes a most important role in the overall economic climate of this administration because we know, and as he stated frequently, the first term of office was dedicated to the production of the infrastructure and the second term of office was for the marketing of the product here in Gibraltar. It seems clear, however, that the Government is rapidly discovering that it is far easier to borrow tens of millions of pounds and put buildings up which is all their secret economic plan appears to consist of, than it is actively to attract investment to Gibraltar which is, of course, the real test of the economic climate of this administration. We have heard the Minister for Government Services state confidently today, "We shall tackle the problem of unemployment in the same way that we tackled the housing problem". Again I say the housing problem itself is not insoluble given the millions of pounds that this administration threw at it. What is not clear is how this administration is actually

going to set about attracting and bringing to Gibraltar the enhanced economic activity that we need to fill in the infrastructure that has been put into place and to create the jobs that we need to get the economic plan off the ground. I think the matter has to be put into perspective. In 1992 the Chief Minister stated that with only a modicum of success we should be able to achieve a growth output of £450 million. Two years on we obviously have not achieved even that modicum of success as the GDP and the growth in output has lagged far behind that target which he set himself. This time last year, the Chief Minister set himself two main targets. "Our target" he said "is to bring Gibraltarian unemployment down from the level of 600" at which it then existed. One has to measure his level of success and as has already been pointed out by my hon Colleague Col Britto at present the level of unemployment is 654. The other main predication made by the Chief Minister this time last year is that he predicted that there would be 14,200 jobs in the economy by this month. In fact, we have seen that again he has fallen short of that target. We now have some 13,800 jobs in Gibraltar with a prediction of 13,500 for this time next year. So in fact the prediction has been brought down by some 700 jobs in the local economy. Clearly then, things are not going according to plan. Despite the Chief Minister's repeated assurances that the ship is on an even keel. Of course, to a great extent we can only take his word for that declaration because we do not have anyway of getting a true, complete picture of the state of Government finances. We know that the public debt is £92 million. We do not know what the off-balance sheet borrowing undertaken by this Government through the companies is so we can only speculate as to what is the final state of finances - and I know the Chief Minister has said this does not constitute Government finances. The fact is that borrowing has been undertaken and that we do not get a complete picture of the financial health of this community from the figures that we have available to us. Also we know that Government revenue and expenditure is falling from what is stated in the Estimates. We do not know what is happening in relation to the one third of Government revenue and expenditure which he has taken out of the Consolidated Fund and put in through special funds. What is clear is that things are not going exactly to plan. How badly, it is impossible to tell. We have the Chief Minister's reassurances that everything is under control. What is definitely clear is that the marketing of this jurisdiction, the marketing of this economy to attract foreign investment in Gibraltar is more important than ever and so what can the Minister for Trade and Industry tell us he has achieved over the last year given that this time last year the Minister for Trade and Industry confirmed that his efforts over the

coming 12 months were going to be dedicated to attracting foreign investment to Gibraltar? What results has he achieved? We have seen the opening of the New Harbours development. As far as we are aware not a single foreign business, not a single business that already did not exist in Gibraltar in one form or another has been attracted. There has been no foreign investment as yet into Gibraltar through the New Harbours development. I recall that this time last year, I made the prophecy that the Gibraltar International Business Development Board would have ceased to exist by now and in fact it ceased to exist within about two months of my prediction last year. The GIBDB no longer exists and we in the Opposition find it difficult to gauge what exactly it is that the Minister is doing to market Gibraltar. What the marketing exercise actually consists of and what it is that he thinks he is going to be able to attract to Gibraltar to fill in the surplus resources that we have. How is the marketing being conducted? This time last year, for example, the Minister boasted that although Baltica had announced that they intended to pull out of Europort development that there were four groups bidding for the purchase of the Europort development and he speculated that before long we would have Richard Branson to deal with in Gibraltar. What happened to that? Certainly those negotiations seem not to have progressed at all. He also said that at the time he was negotiating the location of three different light industrial companies in the New Harbours. Where are they? We still have not seen them and what is clear, Mr Speaker, is that over the last year in fact this administration and the Minister for Trade and Industry have not succeeded in attracting any foreign investment to Gibraltar. We have spent £30 million of taxpayers' money on the New Harbours development which constitutes the biggest ever capital expenditure project undertaken by a Government of Gibraltar. It is more than £2,000 for every taxpayer in this community and of course the only possible justification for that sort of expenditure is that it must bring in new industries, new employment prospects into this community and it has to be said that he simply has failed to do that. It would have been cheaper, the way things are going, for this Government to have given £100,000 to every single business that is located in the New Harbours and told them to go away. We have spent £30 million which is providing precious little return. The ultimate irony is that when we in this House ask the Government and the Minister for Trade and Industry to tell us what sort of comeback we were getting, what sort of income the Government is deriving from the New Harbours project so that at least the taxpayer knows what sort of return he is getting on his £30 million investment, we are told that the letting of the New Harbours has been put in the hands of a private company

and that they are not going to tell us what the income from the New Harbours is. Again that is symptomatic of this Government's arrogant approach to administration and politics and totally unsatisfactory from the point of view of the electorate. I think the elector is entitled to ask himself what was the idea behind the New Harbours development. Who was going to move into the New Harbours development? Are we saying that we spent £30 million on building an industrial park without having any clear ideas as to who we were going to attract to move in there and who was going to provide the jobs in the New Harbours that we have been promised are going to develop. We have no tradition of light industry. We know and we knew as that construction developed that we had a glut of office accommodation in Gibraltar. We knew also that the MOD were pulling out, that the economy was shrinking, that, if anything, there was an increasingly depressed demand for commercial property and that we had an increased supply of commercial and residential properties being released into the economy by the MOD. Our analysis and what can only be surmised is that in fact there was no real plan underlying the construction of the New Harbours and it is for this reason that we have criticised that development. The Minister retorts, "Well, at least we have gone for it, we have taken the gamble, we have built the asset" but the question is, is it an asset that this community could afford because it is the Rolls Royce of all developments in Gibraltar and it has been paid for not as in the case of Europort by a private developer but by the Government of Gibraltar. What is the reasoning and what attempts have the Government made to explain to the electorate exactly what they thought they were going to get in there and what return for their money the electorate can expect to get in the foreseeable future? Really, commenting generally on this Government's marketing activities I pose this question. What chance are we giving ourselves as a jurisdiction, as an economy of succeeding in attracting the business that we need to Gibraltar? I have to come to this, we have said it often times and no doubt we will say it often again in the future. The first element that we have to establish if we are going to succeed in marketing ourselves as an offshore base for finance service related business, directed at the European Community is that we have to sort out our reputation and there are three miscalculations in my mind which this administration have been guilty of in respect to that. The first, and I say it again, is the whole question of the smuggling activity which goes on from Gibraltar. It is simply incompatible to have a reputable offshore finance centre which openly indulges, it has to be said, which the Government almost encourages this sort of activity on a day-to-day basis. We have, for example, the Gun Wharf facility which is an important infrastructural facility in Gibraltar. What is

that being used for? It appears; it has not confirmed but certainly from the experience of one and what one can see is going on down there that that facility has simply been handed over to the smugglers to facilitate their smuggling activities. It is going on blatantly from that area and certainly it would seem that Government is taking no steps or making no attempts to curtail that. The Minister for Trade and Industry, who has now left the Chamber, alluded to the whole question of smuggling activity and the whole thrust of his arguments seem to be that our concern as regards the smuggling industry is that we are afraid as to the effect on Spain and he said, "What goes on from Gibraltar is only a minute proportion of what goes on to Galicia, to Andorra and all the other places". That is not the point. We, in the Opposition, do not give a jot what the effect of the smuggling is on the Spanish economy. What concerns us is the effect of the smuggling on our economy and that it is providing..... [Interruption] Well, that is the calculation that this Government have to make and I see the Chief Minister smiles wryly. On the other hand, we have the short term income that that activity is producing, but on the other hand - this is the miscalculation that we in this House consider this Government is making - this Government have to take into account that the activity is actually constituting a drag on the development of this community, of this economy, as a sophisticated viable finance centre. We simply cannot have the two. That is our view, the Government obviously think differently but the fact is that we in the Opposition simply think it is going to be impossible to market this jurisdiction as an offshore finance centre directing itself to the European Community whilst this activity goes on. The second miscalculation we believe from the Opposition has been the July 1st law which the Chief Minister has attempted to justify as an attempt to protect local jobs. We have seen in fact that the July 1st law has had a negligible effect on the employment situation of Gibraltarians. We have seen and he has explained that the boom in employment that there was in Gibraltar between 1990 and 1993 was in the construction industry and a significant proportion of those jobs were taken by UK workers who were turning up in Gibraltar looking for construction jobs in the same way that Portuguese or Spanish workers were looking for construction jobs in Gibraltar. The fact is the Gibraltarians traditionally did not employ themselves in that sector. The Gibraltarians themselves were not looking for jobs in that sector. That sector, as the Chief Minister has explained, has virtually all but disappeared and we now find ourselves back at the level of approximately 800 construction workers that we had prior to the building boom. What we still have, unfortunately, is the July 1st law and it is again the

Opposition's analysis that the effect of the July 1st law on our biggest market, because as the Chief Minister himself has identified, the biggest market for Gibraltar's services is the UK economy and in terms of the perception of this territory, the damage to that perception, the damage to the marketability of this territory that has been caused by that July 1st law which means, and let us not overlook this point, that Gibraltar is the only European territory in which English people cannot work by law. Every other EC citizen, from a Greek to a Frenchman can work in Gibraltar but an Englishman is not allowed to find work in Gibraltar. This has had a catastrophic effect on our prospects of marketing this place to the United Kingdom and it is our experience that a number of institutions have looked at Gibraltar and have found themselves dissatisfied with the state as a result of that law and have reconsidered their establishment in Gibraltar.

The last point of course is the whole question of the reputation of this administration and we have seen, I have to say, repeated attacks in the press on individuals of this administration. The Opposition have offered those individuals to use public funds to defend not only their personal reputations but the reputations of this Government. They have failed to take up this offer. They have failed to answer questions raised in this House as to the allegations that have been made and that whole issue is still a miasma that hangs over this administration which unfortunately is still used as a stick as a result of which the press coverage of this jurisdiction, the perception of this jurisdiction abroad from Gibraltar is not what it should be. For those three reasons it is the view of the Opposition that until those three problems are addressed it is our view that the marketing assets of this administration will not succeed. I hope I am wrong and I have said that honestly. I hope that this time next year the Hon Mr Feetham, the Minister for Trade and Industry, can stand up in this Chamber and say "Look, I have succeeded, I have got the Chinese out, we have got a ship building firm, that we have got whatever. We have succeeded in attracting something to Gibraltar. We finally got the fund managing business working. We are finally going to get people pouring into Europort and the New Harbours." I can assure the Government Members that I, for my part, would be the first to congratulate this administration for doing it but unfortunately, and they have to concede, that to date their record is one of zero success, that their marketing has not succeeded and that they have not achieved the results that they undertook on behalf of this community.

Mr Speaker, that concludes my comments on the Department of Trade and Industry. There are just two short points

that I want to make. The first is the question of and one that I raised in questions to the Financial and Development Secretary, his predecessor, the present Financial and Development Secretary, the one that I raised in this debate in this House on every occasion that I have been involved, that is over the last three years in 1992, 1993 and now. That is the whole question of the treatment of divorced mothers under the Income Tax regime. I see the Financial and Development Secretary nods his head, he knows what I am referring to. The problem, as we have pointed out time and again, 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 payments 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 them, i.e. the person that most needs them, is increased. We have brought this matter to the attention of the previous Financial and Development Secretary two years ago. He agreed that there was a problem and that he would look at it. I have raised it every single time in this debate. I raised it in a question, in fact last time last October to the Financial and Development Secretary. Every time we get the same reassurances that the matter is under review and that it is being looked at. I can see no progress on the matter and the fact is that real injustice and real hardship is being caused to some of the most vulnerable members of our society, i.e. single mothers, divorced mothers who cannot work, they have got young children and what little income they are deriving from their husbands in maintenance payments are being taxed in their hands as opposed to being taxed in the hand of the person making those payments which is an unfair arrangement. It is not the arrangement that applies in the United Kingdom. The necessary statutory amendments have been made there and we simply have not changed our laws and brought it up to date.

The last point, Mr Speaker, is the thorny and vexed question of the rates situation in Gibraltar. The question of the regime that this administration have put into place in relation to rates and the whole record of collection of arrears. I was frankly appalled when in reply to the question I put to him two or three weeks ago, the Financial and Development Secretary divulged and revealed that there are more than £5 million of rates arrears in respect of commercial premises owed to the Government of Gibraltar. I was surprised at the magnitude of the figure. I was certainly aware that the problem existed because, as had been made clear to me, this Government, since 1988, has made no attempt to collect any arrears of rates. They simply, as far as I

am aware, I may be wrong, I may be corrected no doubt if I am wrong, but the Arrears Section of the Rates Department was disbanded and these rates arrears were allowed to accumulate. What the Government did do is to amend the law to make landlords responsible for rates unpaid by their tenants but in most cases the landlords neither knew that their tenants were falling into arrears of rates and in some cases had no way of knowing because although the Chief Minister denies it, we are aware of cases where landlords contacted the Rates Department and the Rates Department refused to divulge the information. It is not a situation where the landlord could actually do anything about it, they simply were not aware that their tenants were getting into these appalling arrears situation. The result is that recently, over the last few weeks, the agency appointed by Government for the collection of rates, Land Property Services Ltd, have sprung into action and have now started serving notices on landlords seeking to recover tens of thousands of pounds of rates arrears which Government had made no attempt over the last five years to collect. I put the question to the Financial and Development Secretary only two or three weeks' ago when we last sat asking him what steps the Government had taken to collect arrears and he was not able to give a reply. He simply waffled. The answer shortly and one which he was loathe to concede and admit it is that in fact Government had not taken any steps to collect arrears. Most inequitably and most unfairly, Government are now seeking to transfer the results of their inactivity over the last five or six years on to landlords, a matter which in a way, can only be termed as over-bearing and simply unfair. I know obviously that a number of landlords are upset about it. They are going to make representations to the Government. Clearly there is a problem of rates arrears but I put it to the Government that they should adopt an enlightened attitude and certainly not seek to impose on landlords the penalties and the consequences of the default of their tenants who unbeknown to them were falling into arrears and the Government was making no attempt either to collect those arrears or at least to bring the matter to the attention of the landlords so that the landlords themselves could take some action to bring the matter into control. It is going to be a vexed problem over the next few months. There are an enormous amount of arrears which landlords are seeking to recover and I would plead with them to take an enlightened attitude to try and sort out that thorny problem because it is simply unacceptable that they should fob off on to the landlords the responsibility for these many thousands of pounds of arrears that are accumulated.

Mr Speaker, I have nothing further to add.

HON CHIEF MINISTER:

Mr Speaker, I will deal first with some of the points that have been raised by the last contribution from the Opposition benches since it is fresh in my mind. The hon Member has defended the support of the Brussels Agreement in distinguishing the stand from that of the Hon Mr Cumming and that of the Government on the basis that we have got nothing to lose by participating. I would imagine that on that score the Hon Mr Cumming agrees with them that we have got nothing to lose by participating in the Brussels Agreement because, in fact, they stood for election in 1992 on the basis of participation in the Brussels Agreement. I do not know on what they base that conclusion that we have got nothing to lose by the Brussels Agreement. It seems to me that we have lost what we have lost in the Brussels Agreement and nowhere else. We lost our right to be a Community airport in the Brussels Agreement; we encountered the commitment to paying Spanish pensions in the Brussels Agreement; we had a situation where one frontier was opened 11 months before it should have been opened because of entry into the European Community in exchange for an agreement by the United Kingdom Government, notwithstanding the preamble to the Constitution, to sit down and be prepared to participate in negotiations on the basis of the UN resolutions to discuss the issues of sovereignty, in the plural; all those were losses. So it is not true to say that we have got nothing to lose by the Brussels Agreement. This is why we opposed it the day it was announced. I do not see how the hon Member can say, "We believe the Brussels Agreement is a good thing", as the AACR did in 1984 when they brought it to the House and they defended it. The AACR, by 1991, was persuaded by our arguments to abandon the process and I have to remind the Opposition that it is not very long ago when the Opposition came out with a press release saying that in a meeting of the European Movement the Leader of the Opposition had offered to have a bipartisan approach on foreign affairs which he claimed had existed since 1969 and which had been broken by me for the first time which was not factually true. I will not call him a liar because that would be unparliamentary. [Interruption] Well, if he has not said it a press release with his name on it said it and we answered within 24 hours. At the annual general meeting of the European Movement the hon Member offered a bipartisan approach on foreign affairs and a number of weeks ago the Opposition party came out with a press release saying, "We want unity", it was when the unity meeting did not take place, if I can refresh the hon Member's memory. After the unity meeting did not take place, the Opposition came out saying that they were in favour of unity and they were in favour of a united position on external affairs and that he had offered me that and that I had rejected it and that by rejecting it I had broken the bipartisan approach on foreign affairs since 1969 when the Constitution started. It was a lot of nonsense because,

in fact, there was not a bipartisan approach on foreign affairs since 1969. It was created, as I pointed out in the release that we came out with, in this House in 1976 when the Strasbourg talks took place and I was not a part of it; it was continued with the Lisbon Agreement and I was not a part of it; it went on to the Brussels process and I was not a part of it; it was reinstated in 1991 in a unanimous motion carried in this House when the AACR in Opposition supported the Government of the day in rejecting the Brussels process. [Interruption] I am reminded that they condemned the AACR at the time for doing a U-turn. What I said in the European Movement was that it was possible for him to do a U-turn and then we could have a bipartisan approach because it is not logical, Mr. Speaker, in political realities to say to a party that fights an election and wins an election on the basis that the Brussels process is bad for Gibraltar, that we should have a bipartisan approach by the winning party abandoning its policy and accepting the policy of the losing party. What is the logic? The logic would have been for Opposition Members to say, "The result of the electorate on an issue ..." which we put at the head of our election campaign, we put it in 1988. Let me remind the House, Mr Speaker, that the 1984 Brussels process did not pass the test of public opinion. It was a controversial thing from the day it was signed and it was carried here and although Sir Joshua Hassan appealed for our support, I said we could not give it because from our point of view it was a continuation of Lisbon and a continuation of Strasbourg, both of which had been rejected by us.

HON P R CARUANA:

Mr Speaker, for the sake of clarification of the record, I am sure the Chief Minister will remember that the offer that I made to him was to put to one side our differences on Brussels, that I would shelve my views on Brussels and that we would then see what could be achieved in common. There was never any suggestion that he should abandon his stand or that I should abandon mine. Consensus to the Chief Minister means that everybody abandons the totality of their own views and joins him in his shoes. That is not consensus, that is simple capitulation to his views. I have never offered him that and I have never put myself in the position of offering him that. What I offered him was to get together to see the extent, if any, to which the gap between our different views could be closed. He turned the offer down, he cannot complain now.

HON CHIEF MINISTER:

I am not complaining, do not get me wrong, Mr Speaker. I am just pointing out, since the last speaker has said that their view is that we should take part in Brussels because we have got nothing to lose and that therefore

that is presumably what he is urging me to do, to go there because we have got nothing to lose. First of all, I am pointing out all the things we have lost already. If it was as simple as going there and if we does not like what we hear we just walk out, well I am surprised that Sir Joshua did not walk out on the airport deal, did not walk out on the Spanish pensions and did not walk out on a number of other things. Apparently he did not walk out. As far as we are concerned, we disagreed with the very basis of the thing from day one. The point I am making is not that the hon Member offered to abandon the Brussels process, I am not saying he said that. What I am saying to him is the statement that they made publicly saying there had been a united bipartisan approach from this House on foreign affairs which for the first time was being broken by me in 1992, is incorrect. It existed in 1991 on the basis of a united House rejecting Brussels and he broke it by not willing to continue with the bipartisan approach adopted in 1991 when he was elected in 1992. He was not prepared to do it because ... [HON P R CARUANA: I was elected in the 1991 bye election.] The bye election of 1991, that is right. And the adoption of the House by that motion was in the interregnum between the disappearance of Mr Montegriffo and the arrival of the Hon Mr Caruana. It was at that time when there was unanimity. If the unanimity was broken by his arrival then he must be the one who broke the unanimity and not me because I was here all the time, before and after, so that is the record. So it seems to me, Mr Speaker, that it is not something as inoffensive as to say, "We have got nothing to lose." The fact that we have now got the preamble to the constitution in tablets of stone instead of a piece of paper from the Privy Council does not alter what is wrong with the Brussels process and it would be totally wrong for the Government that was elected on the basis of its rejection of the Brussels process to, in fact, even if it thought that the policy should be changed, change that policy without consulting the electorate on whose support it got elected on something as fundamental as that. If the last speaker is saying "We ought to be going to the Brussels process because there is nothing to lose" then, presumably, what we are being asked is to take part and I have made clear we are not going to take part but I am also making clear that, in fact, it is not even reasonable to ask us. I have held back from saying to the Hon Mr Cumming that he should leave this House but what I have to say to him is that at the end of the day his rights, as a citizen, to have whatever views he wants to have and to express them in interviews and so forth, nobody can take away from him. But if he gets interviewed three times a week it is because he is in the House because otherwise every citizen would be able to get three interviews a week. He has only got the right to be interviewed three times a week on the platform in which he got elected to the House because, in our view he may have differences of degree with Opposition Members but if it is such a fundamental thing and one that is

capable of being interpreted, which is what I am trying to make him understand. As I said to him in answer to questions, taking a charitable view of his good intentions, he has got to understand that this is a very serious business and that the people outside who do not know him personally will try and draw some kind of political conclusion from his exodus from the GSD, the issue on which he has left the GSD and the tenacity with which he continues to defend that. Therefore I have to say to Opposition Members that it is their responsibility to tell him to either shut up or pack up, not anybody else's, but at the end of the day if they do not do it we - and I do it without any personal animosity to the hon Member - I have to say, will have to consider, at some stage, if in fact we require, as the governing party, to do something if we think that his thoughts, which he has got his own, are developing by the day, are getting to a stage where other people are going to draw different conclusions. I honestly believe that if there were prospects, however remote, of getting a shift of the Spanish position to the kind of position that I have defended in the UN which I think is defensible externally. That is to say, people in the UN, in the Committee of 24 for example, find it very logical to argue how can the colonial Government elected by the colonial people be part of the delegation of the colonising power. To them it is so axiomatic, in any other part of the world how would it be? How would one expect in any other colony that the decolonisation of the colony would be on the basis that part of the team of the Foreign Secretary is the native leader. If that is making an impact, and I believe it is making an impact and therefore we propose as a Government to continue that offensive, then obviously on the Spanish side where all these things are monitored if they think that here we are at loggerheads amongst each other they see that as something that strengthens them and I think the hon Member ought to really think seriously about those things. I do not want to go any further along that route.

I will now move to the next point about the conflict of interest on the Spanish pensions case which the hon Member has defended. I am not going to say whether it is principled or unprincipled but I will tell him one thing, in all the years that I was the Branch Officer of the TGWU I never, ever, once said, "As the Branch Officer I will negotiate a claim for my members but as a politician I hope that the Branch Officer loses the case". That I have never done and I have great difficulty in understanding that. [Interruption.] Well, I think the hon Member said in an interview that for the sake of all of us he hoped Triay and Triay would lose the case against the Government. [HON P R CARUANA: Who said that?] The hon Member did. I will get the record, Mr Speaker, and send it to him. [HON P R CARUANA: Let him do that. And then he can withdraw that remark.] Yes, if my memory has failed me, which is not a frequent occurrence, I think we will agree, when the hon Member was defending himself in an interview with

Mr Golt on GBC television he said, "I hope for all our sakes" - showing the extent to which he did not agree with what was happening - "that the Spanish case is lost and the Government wins".

HON P R CARUANA:

If the Chief Minister will give way. What I have said in public is what my hon Friend, Mr Vasquez, has repeated today. That I expressed my view on this matter in October 1993 and people's subsequent choice of firms of solicitors is a matter for them and if any conflict of interest exists, it exists between the firm and their client and not between me and this House because my opinions are clear, they were stated before the firm took the instruction and I had said publicly that my views had not changed. Those who choose to instruct the firm, instruct the firm in that certain knowledge. That is not to say what the Chief Minister has said. What I actually did say, and of course his memory has failed him, for the completeness of this Hansard, is that people will have to read between the lines as to the answer to the question that was put to me by the interviewer "Does that mean that you want your firm to lose?"

HON CHIEF MINISTER:

Perhaps where my memory fails is in the small print and the reading between the lines which is, of course, the professional tools of the hon Member which those of us who are not lawyers sometimes think that when somebody is saying is what he means and not that we have to read between the lines and read the small print to make sure that we have got the right picture. The reason why I am making this point, Mr Speaker, is because there was a parallel drawn by the Hon Mr Vasquez as to the position adopted by me in the Opposition and by me as the Branch Officer. What I have had to make clear is that there was never, as far as I can recollect, a situation where the position that I took as a professional trade union negotiator was one which I disagreed with as a Member of the House at a political level. Therefore if I came here I defended parity in the House and I defended parity in the picket line but what I did not do was to say, "in the picket line I go because I am the Branch Officer on pay". But when I come to the House I say, "I do not agree with what the TGWU is doing". That is the point I am making. The parallel drawn by the Hon Mr Vasquez is not a truly accurate parallel and therefore we would not have an argument with him if he said, for example, in this House - I was not aware of the code of ethics that lawyers have.... [HON F VASQUEZ: Barristers and solicitors.] Barristers, not lawyers, and solicitors, I see. Well, if he is a barrister then presumably that code of ethic would enable him to represent the Government against the landlords

notwithstanding that politically he agrees with their arguments. It is difficult, I think, for non-barristers to understand that. [HON P R CARUANA: Which are the comments that his hon Colleague, Mr Mor, has made in this House today, clearly based on a lack of understanding.] Yes, I think it is a lack of understanding that probably other than the 80 barristers, the other 29,920 residents of Gibraltar probably have an equal difficulty.

HON P R CARUANA:

No, Mr Speaker, because it presupposes that the other 29,920 people of Gibraltar presume that when lawyers accept briefs on behalf of child molesters and rapists, they are actually signalling some sympathy for child molesters and rapists and it just does not follow. In other words, that one's obligation to take the brief is unconnected with the views that one may have or the sympathy that one may have of the subject matter of the brief. That is the principle and that is the theory and it is applied.

HON CHIEF MINISTER:

Mr Speaker, I do not dispute that. This is where the difference lies and where people have difficulty in understanding how they can reconcile the position. It is difficult for an ordinary person to understand that one can vote in favour of something in this House and then challenge in court what one has voted on in this House because as a lawyer it is perfectly legitimate. Of course one would say that the fact that one defends a rapist, a murderer, a drug trafficker does not mean that one sympathises with them.

HON P R CARUANA:

But who is challenging? I am very grateful to the Chief Minister for giving way. He loses sight of the fact that it is not, and I know that his party propaganda machine likes to make great play of this distortion of the reality, it is not Triay and Triay that is challenging the pensions, it is the pensioners that are challenging the pensions. Triay and Triay are providing the legal representation and within Triay and Triay, who are not the challengers but the legal representatives of the challengers, neither my Hon Friend Mr Vasquez nor I are rendering any service in that capacity. I take note that the Minister for Social Services takes umbrage at the fact that we might somehow in our status as partners profit from this, cardinal sin that Triay and Triay appear to be doing. I undertake to him here and now to contribute my share of the profit that flows from that brief, if any, which remains to be seen, to any charity of his choice.

HON CHIEF MINISTER:

To the Spanish pensioners who are obviously going to need the money because they are going to lose the case. Mr Speaker, I do not want to labour this point but the hon Member in explaining the position, it seems to me, drew a parallel and said that what we had done in Opposition was reprehensible and it is not. This is my answer. Let me say that it is not true that Sir Joshua Hassan was never criticised in Government ... [Interruption] No, I did not criticise him. But certainly Calpe News run a regular feature on it. I do not know whether the hon Member had any connection with Calpe News or whether that was another branch of Triay and Triay.

Mr Speaker, the other thing is that I would like moving on to the points that he made which I jotted down. I want to correct what he said in quoting me from last year's contribution as to the number of jobs that I had predicted and how my prediction had proved to be wrong. Not, let me say, that I think it is impossible for my predictions to be wrong because obviously I am not infallible. If the hon Member has got the Hansard there then he will know that what the Hansard says is "We expect the figure for April 1993" and the figure of 13,800 which I gave in answer to a question was my guess of this year's figure, not my prediction of last year's figure and the figure that he quoted was the April 1993 figure. I am sure his Hansard says the same as mine. [HON F VASQUEZ: That is correct and I do apologise, Mr Speaker, I see that now.] I imagine the figure will prove that I am right eventually. Let me say, Mr Speaker, that the figure that I have given the hon Member of 13,800 this year is not a prediction so that he can quote me next year because the information that I provided in answer to the question, "Your estimating must be based on some assumption?" was "Yes, obviously we have made the assumption based on the movement in the construction industry that the figure will be 13,800 in April 1994 but it is not a prediction because we cannot even make a prediction until we get the social insurance cards of December 1993 which we are still trying to collect. So it is no more than a reasonable guesstimate". I really do not know, we could be out by a couple of hundred either way, for example, quite easily on that figure of 13,800.

HON F VASQUEZ:

Is the figure of 13,800 the Chief Minister's projection for the level of employment now in March?

HON CHIEF MINISTER:

Now, yes. What we are saying is if we look at the amount we have got of the expected yield from PAYE, that expected yield of PAYE has an assumption about the number of taxpayers. Since we are still collecting P8's from June

1993, because that is how the system works, people are supposed to start handing the June 1993 P8's in July and August and even though we threaten them with penalties and all sorts of things we are still collecting them nine months later. Given the fact that we have got a financial year which runs from April to March; a social insurance year which runs from January to December; and a tax year which runs from July to June, I am sure the hon Member will realise that the figure that one has of the current situation is more a feel for the situation than anything based on the compilation of statistics which was what I tried to reflect in my answer to the question that I had earlier in the meeting. The probable numbers in employment at the moment is 13,800 and it is on that probable number with the probable result of a loss of 300 further jobs in the construction industry within the next 12 months, that the prediction of the estimated yield from PAYE is based. I am explaining that so that the hon Member can see that it is not really something that I feel I can be held to if it turns out to be quite out the next year. The hon Member also said that in looking at the £92 million borrowing they did not know what was the off-balance borrowing by companies. Well on this occasion I did something very similar to what the Leader of the Opposition claims to have done in that interview because when I was asked a question earlier on about the borrowing, I said to the Opposition Member, "Look, if the Government borrows cheaper than the company and the Government has got a borrowing facility of £8 million which it has not utilised, what logic is there to the company borrowing from the bank at a higher rate than the Government can do?" There is no logic. And the Leader of the Opposition said to me, "Does that mean that there is no borrowing by the companies?" and I said to him, "You can draw your own conclusions" which is the same thing that he did, apparently, in the interview with Clive Golt and presumably I can do without having to be a barrister. So I commend the message to the hon Member. [Interruption] Because I choose not to, it is my prerogative. The hon Member also said that they did not know about one-third of the revenue and they did not know if it was falling. Well, again, that is not correct because in fact they asked the question and they got the answer. In 1992 the Opposition Member complained about the fact that we had not included estimates of revenue that went to special funds in the Estimates, some of which had already been taken out before 1992. On this occasion he asked about the revenue. He was given the forecast outturn for 1993/94 and he was told that on the present basis.....

HON F VASQUEZ:

If the Chief Minister will give way. The point surely is that we have had the figures for the revenue of the last year what we do not know is what the forecast outturn of the expenditure is going to be and without that it is impossible to know exactly what the state of the finances are.

HON CHIEF MINISTER:

The hon Member then was talking about the expenditure and not the revenue because he is saying, "We do not know if it is falling" but presumably they do not really think the expenditure is falling. Therefore, he said, "We do not know whether the revenue is falling". Those are the words that he used. I think on the expenditure side let me say, Mr Speaker, that of course it is not true what they have said in the past because not long ago, when I came back from the United Kingdom and I was interviewed and I made a reference to the fact that the bulk of the money was going to the Social Assistance Fund, there was, in fact, a very aggressive press release from the Opposition saying that they had never questioned the money going to the Social Assistance Fund. It was the money going into all these dozens of Government companies with all the secret funds. They know, because they have been given the figures, that the bulk of the money goes into the Social Assistance Fund, they know that the other items of revenue which go into the General Sinking Fund, is not money that would have had the expenditure appropriated by the House. They know that as well because the payment of debt is a direct charge on the Consolidated Fund which does not require the appropriation of the House. When we set up the General Sinking Fund as we did in 1992, let me remind the Opposition Members, was because during the election campaign they were saying, "We have borrowed £100 million and we are not creating any machinery to pay back the £100 million and because of that what Bossano and the GSLP are doing is putting a millstone round the necks of future generations of Gibraltarians". We came in in 1992, got elected and we said, "We are now setting up a General Sinking Fund to amortize the debt". Ever since then we have been criticised for having this secret fund which nobody knows what it is for. [Interruption] No, well that is what it sounds to me. Since I keep carefully filed everything they say. [Interruption] No, no so that I can quote him, Mr Speaker. I do not think I am distorting this. In that interview when I mentioned that the response of the Opposition was to say they had not questioned the Social Assistance Fund. In fact, the questions that they have asked in this House of the Social Assistance Fund shows that that is where the bulk of the money is. They may not agree with the company tax going to the Gibraltar Investment Fund but, of course, they also know, because we have explained it many, many times and they have said they have understood it many, many times and because in the last answer that I gave them which was four pages long on the structure of the companies, I said to them, if they look at the amount of money that has gone into the Gibraltar Investment Fund and at the amount of money that has been received by the Improvement and Development Fund from the sale of property; if they look at those figures and if they do their work but of course it is much easier to say to me that I should stand up and explain it to them. What

I am saying to the Opposition Members and what I have said in the past is when I was there, when I did not get an explanation, what I did was I sat down and went through every possible set of audited accounts with the same special funds. We added to the special funds but there were many there already using the same mechanism and nobody in the Opposition, neither me or anybody else, ascribed sinister motives for the existence of the fund ever; ever in all the time that I was there. I complained about not getting enough information. That is a perfectly illegitimate thing for the hon Member to do. The hon Member can criticise us and say he believes that our policies are not working. And that is his right and not only is it his right it is a natural thing for him to do if he wants to convince people outside that Gibraltar would be better governed by him rather than by me. He can say he feels that it would be better for all the accounts of the companies to be published. He can say he feels it would be better if there were no special funds, but if he goes beyond that, to say the kind of things that have been said in the past then he is saying something different. I am glad that he has not said it on this occasion because frankly I do not think that it is good for the image of the House and I do not think it is good for the image of politicians. So I am glad he has not said it. He has not said it on this occasion but.....

HON F VASQUEZ:

With respect, I cannot recall ever accusing the Government in the fraudulent use of these funds. I really do not think I can.

HON CHIEF MINISTER:

No, Mr Speaker, let me say he must know. Let me put it this way, Mr Speaker. If somebody else in that interview which he went to on GBC had said about the companies that there was this structure which was what Robert Maxwell had done with funds and cash flushing in and out with hundreds of millions of pounds which nobody knew where they were. In answer to a question from Clive Golt saying, "Well are you saying that this is improper?" he said, "It is near fraudulent". If somebody else had said that and I had got him to be my lawyer to sue that other person for libel, he would have got me a lot of money and he would have earned himself a fat fee. Let me put it that way.

HON P R CARUANA:

Would the Chief Minister give way? I do not think it is a fair analogy for the Chief Minister to compare the present situation and the one that has reigned since 1988 with the one that confronted him when he was Leader of the

Opposition. True that before 1988 there were special funds; special funds which eventually accounted to the House and certainly he presumably had the same complaint that it took 18 months not the current two years to get the information. It now takes a bit longer than it did then for the accounts of Gibraltar to be tabled. Leaving that point to one side, what did not exist before 1988, except with the exception of Gibraltar Shiprepair and the wretched Quarry Company which has much to answer for in this respect, was a whole layer of companies underneath the special funds which further concealed the accounting of the assets that were first introduced into the special fund. That is the great difference and all this money, it is no use the Chief Minister telling us, "I have explained to you 15 times, the last time in the four page answer as to now I have capitalised the property that..." We know that. But the fact of the matter remains that to the extent that there is money introduced since 1988 into the Gibraltar Investment Fund or has he forgotten where the first proceeds of the first borrowing that he made, went. And it was the last that it saw the light of day as far as we are concerned. He knows where it is and I suppose that the Financial and Development Secretary knows where it is. But from the point of view of public accountability, was there not even an amendment to the Loan Empowering Ordinance? Was there not even an amendment to permit the proceeds of borrowing to be injected into a special fund and then from there on into companies? We cannot say whether the whole of it went back to the Improvement and Development Fund, whether part of it found its way through share capital subscription into other companies and the monies may still be there for all we know. So I think that the analogy of the post-1988 situation and the pre-1988 situation is not an all together fair one.

HON CHIEF MINISTER:

No, Mr Speaker, the Opposition Member is wrong. It cannot be there for all he knows if he knows how to count. Let me give the hon Member for the umpteenth time the example. He has said in this House that if we borrowed tomorrow £5 million, as far as he is concerned what he would do would be that the £5 million would come into the Improvement and Development Fund to finance the expenditure which is when we are spending the money when it goes out of the Improvement and Development Fund. If we put the £5 million into the share capital of the Commercial Property Company and the.... [Interruption] Mr Speaker, I am giving the hon Member an example, either he wants to hear it or he does not. And the Commercial Property Company buys from the Government this building and the money is shown as receipts 'Sale of building' and the money is spent when we vote it in the Improvement and Development Fund, then there is something sinister because there is £5 million that nobody knows where it is. Well if he has understood

that mechanism of capitalising the property he has to know that there cannot be £50 million in cash from borrowing, \$50 million in share capital and £50 million in property and that that is £150 million. No, that is the same £50 million three times.

HON P R CARUANA:

Of course, Mr Speaker, they are the same £50 million, but is the Chief Minister now for the first time saying in this House that the totality that 100 per cent of the money that arrived at the Gibraltar Investment Fund from whatever source; 100 per cent of it, every single penny of it found its way back to the Improvement and Development Fund and not to other companies under the Gibraltar Investment Fund for other activities, which may have been successful or unsuccessful? Because unless he is saying to me that 100 per cent of the money that went into the Gibraltar Investment Fund was of the kind that he has just given me the example, so that it all comes back to the Improvement and Development Fund pursuant to the capitalisation mechanism, then, frankly, to repeatedly use that example as if it reflected the totality of the cash flow when it does not describe the totality of the cash flow, is I think misleading. Is he now saying, what I am putting to him now, that 100 per cent of it reached the Improvement and Development Fund?

HON CHIEF MINISTER:

No, Mr Speaker, he knows I am not saying that but what I am saying is that if he had cared to do his homework he would know that if it was not 100 per cent it was 95 per cent and if he goes back to 1988.... Of course, Opposition Members feel they have the right, not just to question the policies since they were elected, they think they have the right to question the policies since 1988 and in 1988 the first role of the Gibraltar Investment Fund was the dealing with the situation of GSL which I have again explained many, many times before. Whether the hon Member knows it or does not know it or remembers, we had a company employing 800 people and losing money and the trading companies that existed after GSL, by and large, were the fragmentation of GSL where the first problem the Government had in 1988, which we explained at the time, was that almost immediately after the election we were faced with the situation where we had GSL losing money, a commitment not to make people redundant and a position from the British Government that it was contrary to Community law to provide a subvention for shiprepairing and that we would not be allowed to do it. That was the first problem we encountered in this House in April 1988. Having just had the £2 million subvention given in November 1987 when apparently nobody realised it was against

Community law. They realised it four months later when we were in office. And since when I have a problem what I do is I devise a solution, that was the first solution we came up with and we created a range of companies, a few of which still exist, employing maybe 70 people of the original 800 who chose not to take redundancy, which are the only trading companies. All the other companies are companies, some of which are now with no function. They have become surplus to requirements, particularly all those like the pipework company and others that were originally created from GSL but now have got no function, no employees and nothing. And companies which we created in that structure but where the movement of the money did not breed as it moved from one company to the other. Whether the Opposition Member agrees with the structure or does not agree with the structure, it is his prerogative. But at least if he understands what it is and he does not agree with it, he has got a right to say, "Well this is the system they have created. I think there is no need for it, I think it is too complicated".

HON P R CARUANA:

If the Chief Minister will give way. We have never said we do not agree with it. We have simply said that it should account. Not that we do not agree with it and this is where we always reach at this point in the debate. That the Chief Minister does not appear to distinguish between a requirement for accounting and an allegation of impropriety and I know that he is now going to refer me back to my hon Friend Mr Vasquez's interview. All we have ever said is that these companies must account.

HON CHIEF MINISTER:

Well I do not think it is all they have ever said. I think they have said considerably more than that but, Mr Speaker, in any case, certainly the one point that I am making on the issue of accountability and on the issue of appropriating expenditure, one point that I am certainly making is that as far as I am concerned if we have got a situation of the example that I have just given, Mr Speaker, which accounts for the bulk of the movement of the money, other than the money that was originally used for the restructuring of the GSL subsidiaries, the bulk of the money is the capitalisation of Government properties. As far as I am concerned the fact that a Government owned company buys a building from the Government and pays the Government the money is not something that is creating lack of accountability or failure to spend the money by appropriation because, as far as I am concerned, we spent the money, not when it enters the Improvement and Development Fund, but when it leaves it. So what I am saying to the Opposition Member is, I cannot see that if we sell

this building for £5 million to a company and the company pays the Government, we have to have a situation where the House approves the company buying the building from the Government. Because the Government is the receiver of the revenue and the revenue is shown as income in the Improvement and Development Fund and what I have said to him is, which is the answer that I gave him in the question in the earlier part of the House, I gave the Opposition Member, if he looks at the totality of the property capitalised and he looks at the money that came in where else does he think the money could be or how more money does he think there could be? The figures speak for themselves. That is the point that I am making.

Mr Speaker, the hon Member says that the 1st July law has had a catastrophic effect on companies coming to Gibraltar, to his knowledge. Those were his words. Let me say that obviously it must have had the catastrophic effect after we carried a unanimous resolution in this House because at the time that we carried a unanimous resolution in this House which I had put to Her Majesty's Government and to which I have not yet had a reply, and I explained the sequence of events, the Hon Mr Vasquez said, "The problem is that the Chief Minister does not take the trouble to explain things before he does them because if he had explained to us why he had introduced the 1st July Rule" - he was then sitting where Mr Cumming is - "then we might have supported it". Obviously, at that time, it had not come to his knowledge that it was having a catastrophic effect and that was, I believe, last year. So the catastrophic effect must be something that has happened in the last few months and I certainly did not realise that my hon Colleague was so successful in the last few months that he had been bringing lots of companies who at the last minute departed from our shores because of the 1st July Rule, hence the catastrophic effect of them not setting up in business.

HON F VASQUEZ:

I am intrigued, Mr Speaker. I am not sure what the unanimous resolution the Chief Minister is referring to.

HON CHIEF MINISTER:

The unanimous resolution, Mr Speaker, where we gave, in this House, a detailed sequence of events going back to August 1992 when we first asked the United Kingdom to take up the matter of the joint declaration on Spanish accession.

HON P R CARUANA:

That was not the hon Member's original resolution. The Chief Minister will recall that that was the issue on which we eventually thrashed out a second resolution.

HON CHIEF MINISTER:

Yes, but it was a unanimous resolution in which some amendments from Opposition Members were incorporated and in speaking to that unanimous resolution the Hon Mr Vasquez said that now that he had heard my explanation and the history of it, he thought that if I had taken the trouble to explain things better beforehand perhaps they might not have been so against the 1st July Rule and that it showed that sometimes I created unnecessary hostility by not taking the trouble to explain things. Obviously he could only have been telling the House that then because at that time the catastrophic effect had not yet come in because otherwise he should have stood up there and said, "This is all very well but the explanation that you have given us does not alter the fact that it is having a catastrophic effect". He did not tell us that. So I can only imagine that it is between his intervention, at the time, when he seemed to be surprised by all the efforts we had made to avoid the 1st July Rule which was the explanation that I gave him, and the fact that we gave the United Kingdom the option rather than going down this route; an option which they still have not taken up, let me say. Certainly I will explain to him, Mr Speaker, why the analysis that he made about the effect on local jobs is incorrect and, of course, we are committed to reviewing the operation of the law in June and it is likely to continue and since he has given me the opportunity of explaining it, why not now? It may be a bit late in the day but better late than never. The Opposition Member said, "If there is a situation where there has been all this construction workers coming in, UK workers, Portuguese workers, Spanish workers and very few Gibraltarians wanting to participate in the construction industry", and that is, by and large, true although he will be glad to hear that we have been moderately successful in increasing the numbers of Gibraltarians in the construction industry and that they are certainly a bigger proportion now of the 800 than they were of the 800 a number of years ago. But, of course, the difference is that the experience we have had in monitoring it is that whereas the Portuguese workers happily go back to Portugal and the Spanish workers happily go back to Spain, the UK workers seek to stay here and if they cannot get a job in the construction industry then they try and get a job doing something else and competing with our workers in other areas; as a bus driver, as a lorry driver or as a warehouse worker in Safeway. Safeway came to us and let me say that this is an example, for example, of an area where local businesses make representations to us about getting very little out of the construction of Safeway. The position of Safeway was to say, "We have got a contractor in the United Kingdom that does our supermarkets for us and if we have to do a supermarket in Scotland he goes to Scotland and we do

not give the job to a Scottish contractor, so it is not discrimination against Gibraltar firms. It is that these people are specialists and they go to wherever we are investing and they take their people there and we have had sub-contractors even for shelving". This is a big investment and we felt we could not say to them, "We will not allow you to do it", but in all those cases we said to them, "If you are telling us that you are going to have 20 UK steel erectors to put up the skeleton of the building, you tell us how long do they need for the skeleton of the building" "Five weeks". "You will get a permit for five weeks". They come, they put the skeleton and at the end of the five weeks they go. If one of the 20 stays behind then because he needs a work permit he will not be able to work in another job". That has been the level of protection we have obtained. Therefore I can tell the hon Member that there have been several hundred workers going through that site and they have all gone back. That is not the experience, having monitored the people who are not covered by the 1st July Rule. The people who were here on the 30th June, frankly, we have seen that a very large proportion of them were people who came for a particular job and then they liked their way of life, the cheap beer and the cigarettes, or whatever and they decided that this was a nice place to stay. But once they did that they lost the reason for which they had come originally and they stayed here to compete with us. If we did not need the protection we would not have it but it is an area where we have seen its value and although we have not yet made a final decision, I can tell the hon Member that we have had a very recent example where some of the people who came, for example, to drive a fork lift on the building site, then wanted to see whether they could stay behind and drive a fork lift on the warehouse once the warehouse was ready. And we said, "No, we are sorry, because you have come in for the purpose of putting up the building". Therefore, when the 120 jobs that Safeway is going to offer in the local market come up, the last thing we want is that some of the people who came to do the construction should then be in a privileged position, because they have got to know the guys on the site because there is a personal relationship because they go out and drink together and then they get the job before the people in the ETB even get interviewed. Those are the realities and it is that kind of detailed understanding of the situation that I think explains that we do not do these things for no reason at all. That it may have had a negative effect in other respects, well that may be true or not but it is the exercise of the judgement of the Government, given the fact that the UK did not want to do what we had been urging it to do and still does not want to do it, which is to go back and argue for derogations for Gibraltar. We know that that would be a difficult situation for them to defend because the evidence that we have happens to show that we are primarily affected by UK workers and not by any other nationality, that is the truth. When Dragados comes

in they do not leave their guys behind, they take them to their next building site in Spain. The evidence is not evidence which shows us being exposed to competition from the 12 nationalities in the EC but from the United Kingdom nationals. In addition, they felt that, notwithstanding the fact that the joint declaration is there, it might be difficult to argue on the strength of the joint declaration if the people who were affecting the labour market were not Spanish and the joint declaration is, as far as I am concerned, capable of being interpreted as one where the Spanish workers are creating a problem for somebody else, not the UK workers.

Mr Speaker, on the smuggling which the hon Member says we encourage, I have already made our position clear. As far as we are concerned, smuggling is people trying to bring things into Gibraltar without paying duty, that is what I understand by smuggling. But certainly the Hon Mr Vasquez must know that we have got a long, long history of producing tobacco in Gibraltar with brand names which were very well known in Spain especially for the Spanish market and those factories did not seem to stop the finance centre getting started in the first place. So whatever the effect may be it must be because we are talking about a new kind of finance centre here, not the one that we have already had in the past since 1954 when the exempt company got going, the exempt companies seemed to be quite happily operating side by side with massive tobacco operations which were not even re-exports, duty paid. They were actually manufacturing units.

HON P R CARUANA:

Mr Speaker, if the Chief Minister will give way. I think we have made it clear on more than one occasion that what does the damage, in our assessment, to Gibraltar is not the cargo that the fast launches carry but the fast launch activity itself. I remember I once said that if they carried gold Rolex watches the effect would be the same. We have no objection, for example, to what we consider to be the legitimate traffic in tobacco which is that the thousands of Spanish pedestrians that come in and each walk away with their cartons hidden in the door panels or in the fuel tanks or wherever it is that they put them, because that is normal frontier duty free, in our case, fortunately duty paid, traffic. It is the fast launch activity, not the fact that it is Winston cartons as opposed to toilet rolls that they are carrying.

HON CHIEF MINISTER:

Fair enough. Mr Speaker, if we are talking about the activity of the existence of fast launches as opposed to what it is that they are carrying or not carrying, then presumably if they were all switching around empty, the

problem would be the same in terms of the perception of that activity. It is, of course, an area which when it has been looked at in the past, what is clear is that there is no similar limitation on people owning boats with a particular size of engine in other territories. The limitation that we have already is something which is not normal in other places. Therefore if we were to say, "We are going down the route of doing that because limiting the right of people to own these boats because of the way the fast launches look to outsiders is having a detrimental effect on our image". Well, I am not convinced, Mr Speaker, that any of the points that have been made about people not coming here to do business explains the fact that we have not been as successful as we had hoped in bringing business to Gibraltar because. As far as I am concerned, I think the main impediment that we have had in developing finance sector activity has been that I remember in 1987 when the Financial and Development Secretary brought to the House the first legislation on UCITS where he actually, apart from the Bill, produced a thick explanatory memorandum, I think produced by the Treasury, to educate us on what UCITS were. We were told at the time that we were very well placed to do this because we were practically the first off the mark, even before Luxembourg. Even today with the Financial Services Commission Ordinance we have got to vote tomorrow in the House, even now I cannot guarantee, seven years after the event that we are going to be able to market UCITS unimpeded. In the meantime the experts in London and the experts in Gibraltar have been writing love letters to each other for seven years, that is what has happened in the meantime. It had been going on for something like four years before I decided to get involved politically. At one stage, and I do not know whether that is still resolved or not, because it makes one wonder, Mr Speaker, whether the problems are real or whether people are looking for a reason for a problem to exist. At one stage, for reasons that I could not fathom, but certainly I can tell the hon Member that this was said to me in a meeting in London of officials from the Cabinet Office and the Treasury and the DTI and so on, a couple of years ago and it may still be stuck there for all I know, they were arguing that under Community law the requirement was that the auditing of the UCITS had to be done by auditors qualified in Gibraltar and that we had to introduce legislation on the obtaining of professional qualifications as auditors in Gibraltar for us to have the UCITS in Gibraltar because the accountancy bodies in the United Kingdom could not extend, whatever it is that they have in their rules, to Gibraltar to legitimise the auditing of the UCITS. And we said, "But this is incomprehensible. Sometimes you tell us we cannot do it because we have got to be matching UK and now you tell us we cannot do it because we have got to be separate from UK". I do not know whether that problem was finally resolved or not. The last time that I got involved in the morass that was the issue having had innumerable amendments of

substance and fullstops and commas and wordings and spellings; when everything else was resolved it was finally a requirement on the auditing which they claimed that according to the EC Directive required that we should have auditors qualified under the national law of Gibraltar which was an impossibility to meet. I can tell the hon Member if I can get access readily tomorrow morning I will make a point of seeing whether that is still the case so that I can tell him when we come to discuss the Financial Services Commission.

The hon Member asked my hon Colleague about the problem with the shipping registry. Well, there again, let me give him an example in connection with the shipping registry of what happened between my meeting in London where apart from Mr Clarke, as the hon Member knows, there were different people and we had some people from the Department of Transport and from the Surveyor General's Office. We were told at that meeting that they were prepared to move from the position that they had taken until then which was that only the five classification societies in the UK could be used. We had had put to us the argument that if we wanted to attract other ship owners we had to have the ability to use other classification societies because other ship owners were not prepared to use just the five in UK and if they had to use the five in UK then why would they want to come here? There is a draft EC Directive which will expand the number of classification societies that Member States will be required to accept. As a compromise, in that meeting in London, we thought we had reached a position where we would be allowed to make provision for using the classification societies intended to be included in the Directive in anticipation of the Directive coming in. That is how we left it in London and we thought that that was it. Now they come back and they tell us that we can use the classification societies, other than the five, provided they decide to go from five to more. Well then we are back to square one because if there was going to be an advantage to us in being the first, like there would have been with the UCITS, is because if in two years time everybody is going to be required to do it and there is a deadline of doing in two years and, of course, it may be natural that for national reasons member States may want to protect their own classification societies and wait till the last minute when they have no choice. So if the UK has got its own society they may want to say, "If we have got to accept in the year 2000 a French one, we will wait until the year 2000" but since we have not got any of our own we can anticipate the fact that everybody is going to have to do it in the year 2000 by doing it in the year 1995 and then we accept the French, the Germans, the UK and everybody else and that gives us an advantage over other people because it is an area where we do not need to protect local interests. The UK may not be able to do it without having a problem with their own domestic interests. Having said that as a compromise we

could move into that additional number, the latest position is that they are saying, "Yes, but we have to recognise them in the UK as well". Then that means that obviously if they recognise them in the UK we would expect axiomatically that we should be able to do it. It would be the height of nonsense for them to tell us that they in UK go from five to six and we have to stay with five. What we were expecting to do was to be in a position where we could go from five to six even if they stayed with five. Again, Mr Speaker, although I tend to try and get myself involved in these things when it seems to be totally deadlock, I cannot say with the kind of authority that I can on other subjects I know enough about this to be able to give him a detailed explanation of which I am totally confident. But I can tell him that that explanation I can give him because it happened to me in the meeting; and the auditors I can give him because it happened to me in another meeting. But we have this constant toing and froing all the time and I think that is the biggest handicap we have got because I believe that one of the most important facilities that we have got to be able to offer potential investors is if we can process their enquiries and deal with their requests not by having lower standards than other people but by doing it more expeditiously than other people. There is no reason why a processing of an interested investor quickly should mean that one is letting in every Tom, Dick and Harry without properly supervising them, there is no correlation between one thing and the other. But, of course, we are not entirely our own masters and we then have a situation where the bureaucracy, because it has to go back to London, is even worse than the one that there is in other places then why on earth should anybody want to come to Gibraltar, whatever incentives we give them? Because if they cannot get in past the front door, what does it matter if we have a bonfire and burn in North Mole all the fast launches, so what? They still will not be able to get past the front door. I really think, and this is part of my nervousness about the changes on the Financial Services Commission Ordinance, is precisely this, that I hope we are not creating some bureaucracy there which without turning anybody down, turns people off. I hope it does not happen like that but I have made it absolutely clear to London that that is one of my worries and that I am not encouraged by the experience I have had so far in everything else. It is really like being in a bog, one keeps on trying to walk and one does not seem to make any progress and one says to oneself, "Is it that there is some sort of hidden agenda that I do not know about?" All of us in Gibraltar are a bit paranoid about these things but people look at one straight in the eye and they say, "No we are trying to be very helpful". And one says, "If you are trying to be very helpful, you have been trying to be helpful now for seven years and I do not seem to have moved one iota". That is a serious problem and I do not have an answer. I think without that, in the area of the financial

services industry, what appears to be still progressing reasonably well has been the traditional business which is really generated by the professionals themselves without really the Government putting very much into it and that bread and butter work is still there, is still holding up and I certainly think the thing we have got to watch like hawks is that we do not put that business in danger and finish up without that and without anything else because that would be very bad news, not just for the people in the industry but for the economy of Gibraltar as a whole and for the Government in its ability to balance the books. I think it bears repeating what I said earlier, Mr Speaker, that 20 per cent of the Gibraltarians in the private sector are today employed in financial services in one way or another; in the chambers of lawyers, in accountants, in all the things that make the industry up. It used to be the third industry in manpower in the private sector construction was first; the retail trade was second; the financial services were third; it is now number two because the construction has now fallen to third place.

Mr Speaker, if I now go back to the contribution of a previous Opposition Member dealing with the points made by the Hon Mr Cumming where, again, he mentioned the problem of smuggling, although in his case he was not worried about the financial services he was worried about the effect on our neighbours; the effect on ourselves; the effect on our society. The truth of the matter is that Gibraltar, like any other frontier town, has had a long, long history. It was started by the Liverpool merchants and I was shown once an interesting book where the Liverpool merchants actually got a petition going against the Governor who tried, at one stage, to intervene in what they considered to be, legitimate trade and what our neighbours considered to be smuggling and they actually succeeded in getting him removed by the British Government. In fact, I think I read the book shortly after Sir Derek Reffell arrived in Gibraltar and made that speech in the Yacht Club but I limited myself simply to lending him the book. There are goods that pay duty in Gibraltar and get sold in the volume that they get sold, and if the hon Member looks at our import and export figures it is quite obvious that the volume of import goes up steadily every year not because we are all consuming more otherwise his analysis about the numbers of people that are poor could not be true. If the consumption was a reflection of the imports, our consumption per capita of every good in the western world would be higher than Kuwait's. So obviously that is not true so we must be selling the stuff and we are selling the stuff to people who take it away and whether they take it away one at a time or in bigger lumps, they pay here the duty paid price and that is the position of the Government and the Government will continue to defend that position. Certainly if we had a different kind of relationship with our neighbours it might not be a question of saying, "What are we going to do to stop people buying

stuff here and taking it across?" It might be that they would not be so incensed about it happening because they certainly do not seem to be incensed about it on any of their other frontiers where they have almost legitimised it. In the agreements that they did with Andorra last year they actually provided for substantial increases in the quantities of duty free tobacco that could be brought into Spain well in excess of what was required by Community law and I am told that, I have never been there, but I am told that Andorra is practically little more than a glorified Main Street with people virtually taking the stuff by container loads. [HON J C PEREZ: It is just that the Chief Minister owns the factories there.]

Mr Speaker, I think the efforts of the hon Member when he says that what he is trying to do in the message that he is sending out is to instil realism into people aimed at the health of Gibraltar and the examples and the parallels that he drew with his experience in nursing and he is saying, "Well if you have got somebody who thinks he is Napoleon you should not humour him", well I am not going to humour him. It is all very well but, of course, in his analysis he forgot one thing. When, as a nurse, he had to give medicine which might have been bitter to a patient for his own good he was not prescribing it and therefore he has got to remember that he is the nurse and I am the doctor and therefore the medicine that he is giving out I am telling him is not going to do the patient any good at all, believe me. He is entitled to analyse these things but he has got to understand, I mean does he not accept that if it was really necessary for us to question the fundamentals on which we have stood and fought for so many years that it would have occurred to more than one? Does he think that it has occurred to other people and that other people are not willing or do not have the courage to stand up and say it? He may be right, if that is what he thinks then I can tell him certainly that is not true on this side, that I can tell him. We have not even contemplated that there is a need for a change of direction of that order, certainly I tell the hon Member, as I said already in relation to the Brussels process, if we felt that it required a fundamental shift of position on the part of the Government because that is what Gibraltar needed, either on the airport or on Brussels or on any other issue and we really honestly came to that conclusion in reviewing the position and in analysing it, we would not be scared to say so. But, of course, we would not feel we had the right to promote that idea on the strength of the people who voted for us on the opposite idea, even if we came to that conclusion today. [HON P CUMMING: They voted for me on Brussels.] I accept that, yes. The hon Member is perfectly entitled to continue to advocate participation in the Brussels process like other hon Members do because he stood on that ticket and he got elected on it. He is entitled to do that and I am not disputing that. But I think if that is all that he was doing then there

is no logic why he is no longer in the GSD. He must be doing something that the others do not agree with him is consistent with what they got elected one otherwise they should all be saying the same thing. So I put it to the hon Member that it is really a question of understanding the extent to which speculating about these things, which is not necessarily harmful if we are doing it within the family. When the hon Member quoted what I had to say to the UK press, the UK press said that the Government of Gibraltar was being nudged into the Spanish hands. We in Gibraltar have always had this sort of semi-love/hate relationship with the UK where we are very patriotic about them but we do not 100 per cent trust them. That has always been a feature of Gibraltar. We have never been able to separate the two things. It happens to the Falkland Islanders and they could not have had better proof of the commitment of the UK because there it was not just a question of tablets of stone, they went to a war which nobody believed any Government would do it and it is quite possible that if it had been anybody other than Mrs Thatcher it would never have happened. But even though they have had that clear proof of the commitment of the United Kingdom, even though they have got a constitution which was done in 1985 and which is far better than ours because it does not talk about us not passing under the sovereignty of another State against our freely and democratically expressed wishes, it says that the people of the Falkland Islands have got an inalienable right to self determination and it is in the body of the constitution in the opening paragraph. That is what they got in 1985. They probably would not have got it if they had not been invaded in 1982 and I certainly do not advocate that route in order to get our constitution changed. But even though they have got that, if one talks to Falkland Islanders, I have been with them and they still say, "We do not trust them. When Garel-Jones goes and talks with Menem is he going to be up to something, because of the oil, because of the fishing licences?" That suspicion at the back of one's mind is a natural thing. But, of course, when a newspaper says that the Foreign Office is nudging us into Spanish hands if it was true, and I can say to the House honestly that it has never happened. That is to say, since 1988, when I have been in Government, in spite of having, as I am sure hon Members must appreciate, the most acrimonious meeting that one can imagine, never once has it been put to me that we ought to do a deal with Spain or that I was being pointed in the Spanish direction. I can tell the House that if it ever happened I would go straight from the plane to the television and tell the people of Gibraltar, there would be no question about it. That is may be why it has never happened, I do not know. I do not know if it has happened to anybody else before me. All I can tell the House is my experience of it. Therefore if the UK press says it is happening then my reaction is to say, "If you say it is being done very subtly, it must have been done so subtly that I have not noticed in which

case it is not much use because if you are being so gentle in pointing me in a particular direction that I am not even aware that you are doing it, I am never going to point in that direction". The hon Member has tried to point us in that direction with less subtlety than he has attributed to the Foreign Office. [HON P CUMMING: It is a bit like a man with the horns, he is the last one to find out.] Yes and, of course, we believe that there are more of those in the northern hemisphere than in this part of the world. I do not think they are in any well documented position to enlighten us in that particular respect. When the hon Member says that the remarks of Senor Solana in the Foreign Affairs Committee - it is something he mentioned to me outside and I will say it for the record, Mr Speaker has expressed his regret, in the meeting of which I have a copy of the minutes, to the Foreign Affairs Committee about the closure of the frontier. Let us not be mistaken about what he is saying. He is not saying it was wrong to close the frontier because it was a very unjust thing to do; he was saying it was wrong to close the frontier because that has made us less likely to want to be Spanish. He was saying it was a mistake to do it, not it was morally unjustifiable and I, as a socialist, condemn the act of a fascist dictator. He was not saying that which is what I think the socialist ought to have done. I used to have these arguments with Fernando Moran and say, "To me what is wrong about your approach is that if you argue that it was wrong for Franco to close the frontier, how can you then argue what am I going to give you in exchange for opening it? Why should I have to give you something in exchange for putting right something that is wrong? If you are saying you would never have done it then why do you need to be paid to undo it?" That has been their position. I have mentioned before the question of the ferry service; if we look at the ferry service, the ferry service was withdrawn by Franco after the beginning of the restrictions but it has certainly been maintained as a restriction longer by a democratic Spain than by a fascist Spain. The time that it has lasted, and with every passing year the record under democracy is longer so how can he say these are the tactics. Anybody I think, not just us, looking at it objectively would say, "The Gibraltarians are more than justified in being totally suspicious of everything that comes from over the frontier". In that context the hon Member has got to understand that it is not just a question of not being open-minded and of not wanting dialogue and of not wanting to be friends, it is that there is every reason to believe that they have got a very clear position and a very clear objective and a totally united one across the spectrum and if we believe, as we do, there are three sides to this and not two, what is clear is that the side of the United Kingdom Government is absolutely crystal clear. They say, "We are not imposing on the Gibraltarians a British presence." - in fact, it is quite obvious that their use for the place now is somewhat limited - "We have given them a commitment we

will not hand them over" and this is nothing new. Sir Alec Douglas Home used to go round recommending to the Spaniards that they should woo the Gibraltarians and then they had this process of thinking together and going to bed together and doing all sorts of funny things. And my reaction was, "It is an affront". One does not go round saying to somebody to woo his wife. If we are married to the United Kingdom they should not be saying to the Spaniards, "I would like to get rid of them. I cannot really because they are sticking to me like limpets. Why do you not see if you can woo them away from me so that I can be chaff of them". That was being said many, many years ago. In that context their position has not changed. The United Kingdom will not hand us over to Spain against our wishes, there is no question about that but, as the Leader of the Opposition correctly stated, if we had any reason to believe that our wishes were being conditioned by the kind of conclusion that the hon Member has come to in some of his recent statements saying, "We cannot live by self determination" then if we were being put in that position where it was not really our wishes that came in from the inside but the wishes that came from the belly; which is where most Gibraltarians apparently are said to have their brains. If that was the case then I think our line would be the line of the Leader of the Opposition and say, "The commitment to respecting the wishes of the people of Gibraltar carries with it the moral responsibility that we are not constrained in our freedom of choice to enable us to exercise our wishes. Because you say to me, "You can either agree with me or I shoot you but it is your choice", you are not giving me much of a choice. I do not believe that we have been put in that position although I have to say that we have encountered all sorts of problems which may just be bureaucracy, a big government, conflicting interests, the EC and all these other things. This is why I do not believe that I could publicly today say, "We are being nudged towards Spain and we are having all the doors closed and I have got enough evidence to be able to make that kind of accusation and prove it beyond doubt" because if I made that kind of accusation - it is one thing to speculate when you are not in Government and another thing is to say with the responsibility of being the Government of Gibraltar - then that would require a mobilisation. I would hope that in those kind of circumstances I hope that that never happens and I am not saying that it will, but I hope if it ever came to that kind of crunch - we would not all be going in separate directions finding different solutions but that we would all be fighting together as a people, totally united to ensure our survival so that if after we survive we want to start calling each other names or quarrelling amongst each other, then that is a perfectly normal thing in a democracy. But on the fundamentals and when the crunch comes I think it is important that the people of Gibraltar should look to the House of Assembly as the place where their elected leaders know where they stand on the things that count. I am sure

the hon Member would not wish to damage that. All I ask him to do is to be careful and to measure his words so that he does not inadvertently produce the perception on the other side that he is engaged in that exercise which other people would want to exploit.

Mr Speaker, to round up I will simply say that, as I said in my opening remarks, it is not a bed of roses to be in Government. We have not been as successful as we had wanted to be in a number of areas. There is nothing to be ashamed in that, we do not pretend to be able to get everything right or to be able to achieve every target we set ourselves but I can say to the House and to the people that we have taken on this job with determination, enthusiasm and a commitment to try and achieve for our people a dignified and solid future both economically and politically and that will be the basis upon which we will continue to govern and at the end of the day we will go back to the people and we will say to them, "this is what we have managed to do. We have put our heart and soul into the job and given it everything we have got and if you think that Gibraltar would benefit by having other people because they would do better than us, fire". I believe that is the way that politics ought to be conducted.

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 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 at a later stage in the meeting.

The House recessed at 11.15 p.m.

WEDNESDAY 18TH MAY, 1994

The House resumed at 10.46 a.m.

COMMITTEE STAGE

HON ATTORNEY GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the Appropriation (1994/95) Bill, 1994, and the Financial Services Commission (Amendment) Bill 1994, clause by clause.

THE APPROPRIATION (1994/95) BILL, 1994

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

Schedule Part I Consolidated Fund

Head 1 Audit

1. Personal Emoluments

HON P CARUANA:

Mr Chairman, I understand that the rules of the House prohibit me from proposing an amendment to increase a vote. What I want to do is to increase the resources of the Principal Auditor, an amendment to reduce it hardly seems constructive and therefore I simply put on the record the view which I expressed on the second reading of the Bill that the resources available to the Principal Auditor under Head 1 ought to be increased in order to remove the dissatisfaction that he has expressed in his latest report.

HON CHIEF MINISTER:

Mr Chairman, the position is that in giving consideration to the resources in terms of direct employment the point that I made last year when the hon Member referred to the comment in the previous year's accounts, what we said to the Principal Auditor was that if he feels he can get a better result by more direct employment and less use of contractors, then we are prepared to review the use of the contractors and increase the numbers employed

directly and reduce the numbers paid out of sub-head 8 Professional Services Fees. What the Government was not prepared to do was, having brought contractors in, to pay the contractors and pay the Principal Auditor to audit the work of the outside auditor which would have meant spending more money than was originally being spent. The idea initially of bringing in the private firms to do the auditing was to see whether that would result in people without a civil service background being able to come up with fresh ideas which were not coming out of the civil service audit which tended to be predominantly concerned with the proper applications of rules rather than with the efficient use of resources in the sense that they did not question whether one needed to be doing something from the point of view of efficiency but whether the proper authority had been obtained. What we would find as a norm in the auditing of different departments is that they might question that there was not, say, an appropriation for £10 in a budget of £1 million because the department had spent on a particular subhead £100 and we had voted £90 and not that anybody was suggesting that anybody had pocketed the £10 but that technically the vote should have been £100 and not £90. In fact, that concept in auditing I can tell the House, who may not be aware of it, I am sure the Hon Col Britto remembers, in 1988 and in 1989 we had to bring here amending legislation going back to the years of the AACR administration in order to approve expenditure in different departments which had been spent without proper appropriation and which had not been discovered until after it had been audited. That did not alter anything in terms of the use of resources other than to, as it were, put the record straight. We decided a couple of years ago to try using the services of auditing firms to see if we could get some fresh ideas on ways in which we could make better use of manpower or equipment or whatever. The comment to which the hon Member referred initially was that the Principal Auditor felt that he, with the remaining staff in the Department, was not really well resourced to go over the ground that the private firms were doing. The only thing we are prepared to do and that is something the Principal Auditor is looking at the moment is to see whether in fact, having tried the private firms for a number of years, we should now consider going back to using less of the private firms and more of the direct labour. The hon Member may then well find that during the course of the year, if as a result of what we are doing now, we decided to go back in that direction, that we will finish up with more people on the establishment and more people under Personal Emoluments but it will not be by increasing the total vote but by reducing subhead 8.

HON P CARUANA:

Mr Chairman, I do not accept the view apparently held by the Chief Minister that the role of the Principal Auditor is limited to checking expenditure against an appropriation of this House. It is evident to me from the nature of the comments that the Principal Auditor himself made in his report that he does not share the Chief Minister's view either because he does not limit the comments in the report to issues of whether or not the expenditure was authorised. He also goes into areas of stock control, stores control, value for money, albeit to a much more limited extent than was historically the case in that there is now the case of the private auditors and any number of things, a loose and lack of financial control and financial system and it follows that if the Auditor, who is making these reports, says that he has insufficient staff to do these jobs satisfactorily presumably what it means is that if he had more resources he could be telling this House more of the things that he is telling this House in his report.

HON CHIEF MINISTER:

Mr Chairman, what the Principal Auditor has said is that instead of somebody being paid as a Higher Executive Officer of which there are two on the complement he ought to have a Senior Executive Officer whether that will produce greater accuracy in auditing or greater satisfaction in the job is a moot point. The point that I am making, in response to the point raised by the Leader of the Opposition, is that we are considering and the only thing we are prepared to consider is a redistribution of the resources and that is being looked at at the moment.

Personal Emoluments was agreed to.

Other Charges was agreed to.

Head 1 Audit stood part of the Bill.

Head 2 Buildings and Works

1. Personal Emoluments

HON LT COL E M BRITTO

Mr Chairman, purely on a technicality but on the establishment on page 23, I notice that we show one Executive Officer under establishment and yet at the bottom of the page under supernumerary staff we show two Executive Officers. Surely, that is incorrect, either we have four Executive Officers so there can only be one

supernumerary not two supernumeraries and one..... or is it supernumerary because it goes with the past?

HON CHIEF MINISTER:

The supernumerary staff at the bottom is on top of the people on the opposite side of the page.

HON LT COL E M BRITTO

Right, but at the top part of the page it is telling us that there are only two Executive Officers. We cannot be one under establishment if we have four out of an establishment of three.

HON J C PEREZ:

There only should be two at the top that is why the others are supernumerary. There has been a review and there should be two, there should not be three.

HON J BALDACHINO:

Mr Chairman, if the hon Members looks at 1993/94 the establishment was three established and one supernumerary. If he looks at 1994/95 there are now two established and two supernumerary. There are still four the only thing is that two are supernumerary now.

1. Personal Emoluments was agreed to.

Other charges

HON LT COL E M BRITTO

Mr Chairman, I appreciate it is not strictly correct under the rules but I make this point as a general point that covers a number of heads and not only under this Head but under Item 4 on the telephone service, the comment I am going to make on this department is relevant to a number of other heads. Under Item 4 I notice that the forecast outturn is considerably higher than the approved estimate. As I say I have noticed this point through the Estimates in a number of other Government Departments and my question is, Mr Chairman, are there any controls on Government Departments on the use of telephones and if not in the climate of strict economy that the Government impose on Government Departments would it not be consonant with Government policy for this economy to be in place?

HON J BALDACHINO:

Mr Chairman, I can only answer for my Department which is Buildings and Works, the only control that there is on telephones is that normally apart from the head of department all other telephones can only do local calls.

HON J C PEREZ:

Mr Chairman, generally speaking there are no controls. There are some instances where in some Departments there are telephones where one cannot dial international. Government are at the moment considering introducing CENTREX which would mean that the inter-departmental calls would not be a charge because they would be already paid for within the CENTREX system and it would therefore mean that although there would be a capital expenditure to meet at the beginning, there could be savings in the future and therefore in reviewing that there could be a stricter view on the availability of telephones which permit calls abroad, but because each Department has to communicate one with the other now even that is rather high but with CENTREX we hope to be able to have a tighter control.

HON LT COL E M BRITTO

Mr Chairman, the other item that comes to mind of course is that unless there has been a change in Government policy and I have not heard of one, some time back Government made the decision that Ministers' home telephones would come under their Department. Presuming this is so, do I take it then that the same lack of control applies to Ministers' personal calls? And the Chief Minister for the Government does not think that it is wise to have any control on excesses of over estimated expenditure, never mind by Ministers, in this particular area of telephones where it is clear, looking through the Estimates that there is an excess that occurs. Does the Government not think it wise.....

HON J C PEREZ:

Mr Chairman, we do not think there are excesses and we have told the hon Member how we think that with CENTREX we are able to even tighten further the controls but we do not think there are excesses. He thinks there are excesses and he thinks we should control better the telephones because he believes that there are people in offices using telephones for other things, I presume, there is no other reason for it.

HON LT COL E M BRITTO

Mr Chairman, the Minister is getting personal. [Interruption] I have not cast aspersions on any member of the Government or on any member of the staff of any Government Department. What I have said very, very simply and if the Minister says he cannot say it then either he cannot count or he cannot see because if the estimate is £12,900 and the actual forecast outturn is £19,999 if that is not excessive then I do not know what is and that is the point I am making. I am not accusing anybody of doing anything that they are not supposed to do, all I am saying is that if under the expressed Government policy that we have been told in this House more than once that Departments have to keep to estimated expenditure, is it not wise that on telephones the same policy should apply and if not I am simply asking why not? I have not had an answer.

HON J C PEREZ:

Mr Chairman, I am glad the hon Member has not accused anybody of anything. It would then mean that what he is suggesting is that in order to keep a control on the budget of the telephones we would have a system whereby when we have run out of money we stop making calls and we would therefore send pigeons between one office and the other to communicate so as not to overrun the budget forecast in the Estimates. The hon Member has to understand that this is an estimate and that the use of a telephone service because we do not really know how many calls we are going to make at the end of the year is one where we cannot very well predict what the outturn is going to be very accurately. I am telling the hon Member that since he has made an issue of a stricter control of the use of telephones in the offices, he might not be getting personal and he might not be accusing anybody of anything but for me a stricter control means that there are people using telephones less. If he had been the one to call for that I am telling him that with the new technology offered by Gibraltar Nynex which is CENTREX we will be able to get calls inter-departmentally not costing the Government anything although the capital cost of introducing the system will have to be borne probably this year under the Improvement and Development Fund. There will probably be a saving there and I have also told the hon Member that he might be concerned for controls that in introducing CENTREX we might then look at every individual telephone that needs to be allowed to call international and scrutinise that a bit better, in answer to the hon Member's issue for controls. He then stood up and asked about Minister's telephones and he says he is not getting personal.

HON LT COL E M BRITTO

The point I have made on Ministers' telephones is the same one as I made on Government Departments, whether there is any control? We have been told there is not. We have said it is a free for all, fair enough, if that is Government policy that Ministers can do whatever they like with their telephones, let them answer for it.

HON CHIEF MINISTER:

Mr Chairman, the point that we are trying to make to the hon Member is that if the purpose of keeping the cost of telephone calls down is put on the basis of control, it can only be that one is trying to control people who are using the telephone unnecessarily and excessively. If people are using the telephone for genuine reasons then no amount of control can keep the cost down because they are using it whenever they need to use it. We know that a very big chunk of the cost of the telephone service in the Government is inter-governmental telephone calls, ie. most of the communications that is reflected here is communication between one Government Department and another Government Department and the point is that in trying to see whether we can keep the cost down which is something different from controlling who uses it and who does not use it. We can make a more cost-effective use of the telephone system. We are considering whether it is worth investing the capital to have a domestic telephone system for the Government which would then not be billed by Nynex. We may decide that the savings do not justify the investment and we may decide not to do it, but at the end of the day if the Department has put £70,300 for the next twelve months, they can finish up the year either spending £18,000 or spending £16,000 depending on how many people require to be called by the Department. There is no way of controlling that. We cannot say to the Housing Department "You are only allowed so many calls a day".

HON P CUMMING:

Item No. 7 Housing Maintenance and Services, I would like to ask whether it is not true that most of the Moroccan workforce that are being repatriated and paid off actually work in Housing maintenance services and I would like to ask where does one look to see money put aside to get the work done that they used to do because it seems to me that in the figures that we have been presented with about the savings it would take place as from next year. It seems to me that the value of the work that they produced has been based practically at nil. What I am saying is, the money to pay for the maintenance where is it going to come from now?

HON J BALDACHINO:

There is no saving as such because the hon Member has to look at Head 7 with Head 101 in the Improvement and Development Fund.

HON CHIEF MINISTER:

Mr Chairman, can I make the point, when I introduced the Estimates the hon Member may not remember, I have said this was produced in March before anybody had decided who was going and who was staying and therefore in the £2.3 million for maintenance and services, is the pay of all the Moroccans that have left. There has been no adjustment either to the cost of the gratuities and pensions which have been paid or to the reduction of the cost of the Departments because of the absence of wages. I mentioned that at the beginning.

HON P CUMMING:

In calculating the profit and loss in all this and in indicating possible savings next year, is there any truth that there is a very low value? It may be the productivity has been very low in that Department but not so low to say that "Look, we are going to have to contract these services that were previously done there", but what value do they have? The value of those services has to be brought in to the calculation of profit and loss and it seems to me that the value put to the Moroccan labourers in that section has been grossly undervalued.

HON CHIEF MINISTER:

The money that is being provided by Head 2 is the same money that was being provided with the Moroccans there so there has been no diminution in the estimates that we are voting. The same amount of money is here as if they were still here. We expect to see a saving in that but the saving has not yet been shown or quantified. We would expect that the outturn will be less than if the Moroccans had not gone but if we add the cost of the pensions then the outturn on pensions, which will be higher, will be more than the reduction in the cost here. That is the point. Let me give the hon Member an example. We might find that instead of spending £2.3 million we spend £2 million but that the pensions instead of going up by £300,000 go up by £0.5 million so we would be £200,000 out of pocket this year but next year we would expect to be £200,000 in pocket and therefore taking the 24 months the effect would be neutral. I am only able to give the hon Member a broad picture of the

effect of 200 Moroccans going with an average wage of £10,000 which should be £2 million and it is based on those sorts of calculations that we have come to that figure but we have not reflected any of it here, this is why I said when I spoke at the introduction of the Bill, that on this occasion we would expect to see bigger variations at the end of the year than would be normal because we have made no adjustments at all.

HON F VASQUEZ:

I wonder whether the Minister could explain the disappearance of the warden structure, what has happened to that?

HON J BALDACHINO:

The warden structure is now included in the subhead 7 as before it was separate issue. Now if he looks at the Housing Maintenance and Services the pay of the warden structure is now included in subhead 7.

Other Charges was agreed to.

Head 2 stood part of the Bill.

Head 3 Education and Sport

1. Education

1. Personal Emoluments

HON E FRANCIS:

We note that expenditure on teachers and salaries has gone down from the actual expenditure in 1992/93 of just over £7 million to the estimate this year 1994/95 of almost £7 million, there is a difference of nearly £90,000. I am just wondering whether the Minister would comment on why less is being spent on teachers and how it is being saved, is it the number of teachers? It is obviously not the number of teachers, what is going on there?

HON J MOSS:

If the hon Member could repeat the question, because quite frankly I have not really caught it.

HON L FRANCIS:

Actual expenditure in 1992/93 was just over £7 million on teachers' salaries. The Estimate for 1994/95 is just over £6,900,000. We all complain of a shortage of

teachers, the Teaching Association is complaining of a shortage of teachers, less money is being spent on teachers or the teaching staff complement has not changed. I just want to hear the Minister's comments on that.

HON J MOSS:

Yes, Mr Chairman, obviously the salaries which are included under subhead (a) are not just those of school teachers, they include anybody else who performs any kind of task for the Education Department and that, until last year, included the salaries of persons employed, for example, in the John Mackintosh Hall but there has not been any decrease in the teaching complement so consequently there cannot have been any savings in the salaries of teachers.

HON L FRANCIS:

Another point, Mr Chairman, there has been substantial fall in overtime. Is this also to do with the John Mackintosh Hall or have some extra curricular activities been cut? How have those savings been achieved?

HON J MOSS:

There has not been any cut in extra curricular activities, to my knowledge and in any case as the Member knows teachers are not paid overtime for these activities so I can only assume it is due to savings in the areas of the John Mackintosh Hall as well.

Personal Emoluments was agreed to.

Other Charges.

HON L FRANCIS:

Mr Chairman, just to raise the point I made yesterday about the possibility to make savings in areas such as general expenses, electricity and water and especially the telephone service. We have just had that point raised. A lot of money is spent on these areas which does not affect the quality of education, it is not related to the education of the children themselves, other overhead, and it seems to us that there is a possibility of some saving at least to be made by looking at these areas more closely eg. using solar heating, although I know it is used in some schools for water etc and that in this way it might be possible to increase the complement of teachers by at least one or two. It is just a point I wanted to reiterate today with the figures in front of us.

HON J MOSS:

The first point I should make is that the hon Member should not make a linkage between other expenses in the Education Department and the complement of teachers which has been established for many years and which continues to be honoured by the Government. It does not follow that if we were suddenly to start communicating via smoke signals that we would be able to save £36,000 and we would be able to employ two teachers. There is a complement and we intend adhering to that. I do take his point about ensuring that we are getting value for money in terms of what is being spent on our children's education and the hon Member will note that expenditure in Other Charges has been fairly well contained over the last couple of years. Indeed, there are even some subheads such as the education of children outside the Government schools that are on the way down. Of course there are things that whilst they do not seem to directly affect the quality of education such as electricity and water do affect how good our schools are because I am sure that the hon Member would be complaining here if parents were saying to him that the girls could not have showers at Westside or if people involved in community use for example which has been increasing over the last couple of years, were not able to use these facilities. Obviously that is part of the reason why there is an extra cost in these areas, but even so it has been reasonably contained in my opinion but we are not complacent and wherever we can look for savings to ensure that the money is being directed for our children's education we are keen to listen and we try and do it as much as possible.

HON L FRANCIS:

My point was merely one of trying to be helpful in the sense that there are ways of making savings without touching actual services, electricity and water, there are many technical ways. We already heard ways where there might be possible savings in the future. My point is not only could extra money be necessarily spent on increasing the teaching complement if the Government do not want to do so but it pays for an extra youth exchange or an extra set of books it is always welcome. That is the point I was making.

In subhead 21, John Mackintosh Hall, we see there has been a big increase in expenditure since 1992/93 in the John Mackintosh Hall. There is a big increase from the approved estimate of £75,000 in 1993/94 to the forecast outturn in 1993/94 which is £168,000. There is a

substantial increase. Would the Minister comment on that?

HON J MOSS:

The reason is that the difference between the approved estimates and the forecast outturn which relates to the fact that the salaries and wages of people employed in the Mackintosh Hall were obviously reflected elsewhere and were not included in that particular subhead.

Other Charges was agreed to.

(2) Sport, Personal Emoluments was agreed to.

Other Charges.

HON J C PEREZ:

I would just like to point out that there is a saving of over £1,000 there in electricity and water, without the need for solar systems.

HON P CARUANA:

If the Government are as bad at estimating their electricity as they are their telephones that would prove not to be correct this time next year.

HON J C PEREZ:

Not being bad at estimating but being good to our staff and letting them use the heaters and the showers and all that. I am sure the hon Member would do otherwise if he was in Government.

HON P CUMMING:

Have not the showers been shut to make way for CEP's new petrol station and that may account for the saving in water and in people not having showers because CEP's is using the land?

HON LT COL E M BRITTO:

Subhead 9, Cleaning and Industrial Services, this item appears time and time again, what do we mean by industrial services? In general terms, what comes under industrial services?

HON M MONTEGRIFFO:

The wages are included there of the industrials.

HON LT COL E M BRITTO:

Under grants to sporting societies, I may have missed it but I have seen no provision for the Island Games throughout the Estimates.

HON MISS M I MONTEGRIFFO:

Mr Chairman, I did give an explanation during the budget speech and I passed the information over to the Hon Mr Francis during my budget speech whereby the money which is included there will be provided also to the Island Games and I even answered a question in this House of Assembly.

HON LT COL E M BRITTO:

I cannot understand that. Are we saying that the grant for the Island Games will come out of the £47,000?

HON MISS M I MONTEGRIFFO:

Yes, that is correct, Mr Chairman.

HON E BRITTO:

Has the Minister any idea what the scale of the grant to the Island Games would be in very broad figures, to the nearest £10,000?

HON MISS M I MONTEGRIFFO:

No, Mr Chairman, it is a question of the Island Games having to seek the assistance from the sports advisory body and this would be given to them when they send in their application.

HON LT COL E M BRITTO:

So what in effect is going to happen is that sporting societies over the last six years of the G.S.L.P. Government have been benefitting, very justly if I may add, to the tune of £45,000. This year will benefit much less because a fair amount of that will go towards the Island Games and if a sporting body is involved in the Island Games it means that if in the past they have had grants for something else, this year they will have the grant and it will be only for the Island Games and they will not be getting anything for anything else, is that so?

HON MISS M I MONTEGRIFFO:

No, Mr Chairman, what has been happening is that whenever we see that there is going to be a big event in Gibraltar

what the sports advisory body is doing is that they are looking at the applications beforehand and passing over the money on a yearly basis.

Head 3 Education stood part of the Bill.

Head 4 Electricity undertaking.

1. Personal Emoluments was agreed to.

Other Charges

HON LT COL E M BRITTO

Under item 6, cleaning and pay of industrials which I would have thought would have been fairly easy to calculate. There has been a considerable decrease which obviously we welcome but is this due to anything in particular or just circumstances?

HON J C PEREZ:

There has been actually a decrease in the forecast outturn because some of the wages were charged to work done under the Improvement and Development Fund during the year and therefore there was a saving in the recurrent expenditure because we had summed up the total of their wages for the year and some of their wages were charged to a vote in the Improvement and Development Fund for work done there.

HON LT COL E M BRITTO

Mr Chairman, could we have an explanation of what is meant by Electrotechnical?

HON J C PEREZ:

Electrotechnical means the people involved in repairing and maintaining the computerised part of the equipment in relation to the general tests at Waterport and the ones that do the more sophisticated electrical work like the machinery in the hospital and the distribution frames that distribute electricity to different areas. It is a small unit headed by Mr Eddie Navas and it employs something like eight or ten people in the whole. It is very efficient and very highly technically qualified.

Head 4 Electricity Undertaking stood part of the Bill.

5. Environment

1. Personal Emoluments

HON L FRANCIS:

Mr Chairman, there has been a substantial increase from the approved estimate of 1993/94 to the estimate for 1994/95, whilst on the other hand there has been a decrease in the overtime. I would just like a comment on this.

HON J E PILCHER:

The explanation on the one hand is that during the year, as I think the hon Member is aware, we took on the responsibilities for housing within the ministerial portfolio of the Environment and that is reflected, if the hon Member has not looked at the start of the page where it actually shows the increase in complement that obviously is an increase in complement during the year which is reflected in the salaries and the decrease in overtime is an improved efficiency within the Department.

Personal Emoluments was agreed to.

Other Charges.

HON F VASQUEZ:

Mr Chairman, I just wonder whether I could see some clarification, it is the third time we have raised it, the question of cleaning and industrial services. We are told that is the employment of industrials. What I cannot understand is if there are industrials employed by the Department why does not it come under the general salary scales or are they using industrials that are found in.....

HON J PILCHER:

The personal emoluments head, Mr Chairman, is the civil servants, the non-industrial complement. It has always been like that. For explanation in sub-head 3, Cleaning and Industrial Services we have the wages of the environmental health operatives in sub-head 7, the Cemetery, we have the wages of the cemetery keepers and in sub-head 8, Cleaning of Highways, we have all the industrial personnel of the Cleansing Department.

HON F VASQUEZ:

I appreciate it is not the practice established but I wonder whether it would not make the Estimates a great deal clearer if in the schedules of the establishment at the beginning of each departmental heading the industrial employees of each Department should be included as well to give some idea as it were of the turnover in staff and

how savings are going, what the exact performance of each department is.

HON CHIEF MINISTER:

We would not be prepared to do that, Mr Chairman. It has certainly never been done because to do that would be to produce a complement which is effectively what we have on the establishment under civil service rules but obviously the hon Member can ask in any head or any subhead how many people are employed and he will get the answer. There is no problem in giving him the information but I think we would not wish to create a precedent which would suggest a parallel between the industrials and the non-industrials because there is not the same degree of flexibility on the non-industrial side in making changes as there is with industrial workers. The position has always been that a labourer in the Government is a labourer in the Government and therefore his wages are charged to the job that he does so that if we have got for example a workers that may be employed part of the time here and part of the time doing a job which is financed out of capital works in the Improvement and Development Fund then the cost of that worker is subdivided. On the non-industrial side it has never been the practice since time immemorial. I do not know if it is laid down in some long-forgotten rule but there is a complement and an establishment and a provision for salaries. This is why, for example, we cannot vire money from the personal emoluments to the Other Charges or vice versa, it can only be within the two groups. For example, if there is a saving in salaries the Financial and Development Secretary can permit some of that money to be used for overtime for non-industrials but he cannot use it for overtime for industrials.

HON F VASQUEZ:

With that explanation in mind and I think as a matter of course I should not ask the questions in respect of each Department. Has there been any change in the number of industrials employed by the Department of the Environment this year and what was the number at the beginning of the year and what was the number at the time of the year, if the Minister has the figures at hand?

HON J PILCHER:

In the case of cleaning and industrial services, Mr Chairman, the answer is no, there has been no movement in industrial personnel in that area. Those are, as I mentioned before, the environmental health operative and the hearse driver and there has been no change at all in that complement nor is it likely to be affected by the

departure of the Moroccan workforce because there are no Moroccans employed in that area.

HON P CUMMING:

Subhead 4 Public Places and Planted Areas, we have this figure of roughly £0.75 million right across, presumably this is contracted out so that it is the same group. I have no complaints of course, the planted areas are beautiful, I just wonder why since it is so difficult to establish whether this is allotted £0.75 million, which is a relatively large sum, to make a judgement on whether it is costing us too much. How is value for money supervised? The same people are getting the same money year after year, there may be a temptation to plant less and to cut corners. What is done to ensure value for money in this aspect?

HON J PILCHER:

That has been explained in this House before what in fact that head is. That is the contract of the Gibraltar Tourism Agency Ltd which is what pays for the administration of the Gibraltar Tourism Agency. From there there are various contractors which I think we have spoken before, Green Arc, the Botanical Gardens and various other contractors. Each contractor has got a monitor, for want of a better word, that monitors the contract on a week to week basis and produces a report on that on a week to week basis. So all the contracts are monitored and the value of the work that is done is monitored but not in the case of Green Arc in counting how many flowers they do. What they have is a contract by which they have a number of areas that they need to improve every year and then that is then transferred to the areas that they maintain every year so that becomes balanced every year. I think Mr Chairman that is really the explanation and I am certainly very happy with all the contractors. In the monitoring exercise there is a tremendous liaison on a week to week basis between the agency, the monitors and the contractors.

HON F VASQUEZ:

Mr Chairman, if I can just come back to the previous question because I was rather caught off guard, the question I put before the Hon Mr Cumming, I asked the Minister to explain what exactly was the total number of industrials employed in the Department. He gave me the answer in relation to the cleaning and industrial services. I really need to know, if he has the figure at hand. I am interested to know how many industrials were employed by the Department of the Environment.

If the figures are not at hand it is something I can take up with the Minister. I think really from the Opposition it is interesting to know for us exactly what the number of employees in each Department is, so that we can gauge the savings that have been made and what importance has been attached to each individual Department and how the Department is performing etc.

HON J PILCHER:

Mr Chairman, in general terms, the hon Member must understand what the Chief Minister said at the start on the movement of Moroccans. The estimates there are based on the employment of approximately, and I can give him the exact figure, 95 persons.

HON F VASQUEZ:

It is expected that once the Moroccans have departed, the ones that have accepted the offer, what proportion of that workforce that is going to be lost?

HON J PILCHER:

We estimate that in the Environmental Head, Mr Chairman, which basically is in subhead 8, Cleaning of Highways, which was where the bulk of the Moroccans in this Department were employed, we are talking about somewhere in the region of 35 to 40.

HON F VASQUEZ:

Is the Minister confident, we have heard that it is not the Government's intention to employ any further industrials to replace them, that his Department, the cleaning section, is actually going to be able to perform satisfactorily the tasks presently carried out for the cleaning of our highways with a complement of 35 or less industrials?

HON J PILCHER:

Mr Chairman, I think the hon Member must have been following the information and communication given by the Government on the departure of the Moroccan labour force. He must have also seen the tenders put out for sub-contracting on the Cleansing Department which my Department at the moment is in the process of finalising. In the cleansing, the departure of those 35 to 40 Moroccans meant that the Department could not continue to do its work within the complement left and therefore we decided, in conjunction with the different entities, Moroccan Association, the Trade Union movement and the employees, to contract those areas out which we have done

and we are in the process now of determining how the contracts are going to work.

HON L FRANCIS:

Mr Chairman on subhead 8, Cleaning of Highways, just a quick question. On the approved estimates 1993/94 it was £803,000 with the outturn being £706,000, is this the result of some project not taking place?

HON J PILCHER:

Again, it is the efficiency of the Department which resulted in a cut back of overtime.

HON P CUMMING:

Mr Chairman, in all these parking areas, an afternoon or a morning where they cannot park for the purpose of cleaning, there has been complaints that all these efforts is done to remove the cars and then the cleaning does not take place, is that because resources have been cut down?

HON J PILCHER:

No, Mr Chairman. First of all, that is not correct. There was a problem related, I believe some three or four weeks ago which I think is the one which the hon Member is referring to which was the problem at Rosia Road where there was a situation where signs were put up three or four weeks before and then there was a breakdown in communication between the Police, the Department and the tenants and the cars were removed by the Police and there was not the normal cleaning. All that happened was that the mechanical sweepers did go in, the area was cleaned but the litter control areas is now a regular feature in the cleansing of Gibraltar. We have seen this in Devil's Tower Road, initially in the Casemates area and Corral Road secondly in Queensway and now thirdly in Rosia Road. Until the persons there get used to the litter control cleansing schedule we have problems with people being clamped. This happens for the first five or six weeks and then people get used to this and I can report quite favourably that, for example, in Devil's Tower Road all the tenants of the road and all the commercial entities in the road are extremely pleased by the changes in the road over the last two years. There is the initial problem when people are asked not to park their cars on a Tuesday morning when they have been doing that all their lives but I think, Mr Chairman, that it is very little to ask of people not to park their cars there one morning a week or one afternoon a week to be able to clean Gibraltar.

HON L FRANCIS:

Mr Chairman, on subhead 9, Collection of Refuse, the forecast outturn last year is £950,000, it has gone up to £1 million this year, given that we are centralising the collection of refuse should not there be a saving there rather than an increase?

HON J PILCHER:

No yet, Mr Chairman. The increase is a normal increase to take into account the wages increase. There is not yet shown in that head the savings because we have not yet moved generally enough in what we call the central cubicle system collection service.

HON LT COL E M BRITTO

Mr Chairman, if I can go back to subhead 8 for a moment. I had assumed that the drop in the forecast outturn and the estimate for the coming year was due to the Moroccan repatriation. [Interruption] It is not reflected in the forecast for next year? Can I then make once again the point that I made yesterday during the general principles.....

HON J PILCHER:

If the hon Member will allow me just one second because I do not want to mislead the House. There are two elements that were shown under the cleaning of highways this year which are not and that there is a compensating element. One is under electricity and water that the Department has gone from £5,000 to £23,800. That is because electricity and water for the cleansing depot was shown in that item before that year, that was about £16,500 so that is shown separately and the other element is that the cost of the stray dogs and cats is now in subhead 3 Cleaning and Industrial Services, again that is £5,000 to £6,000 so in general there is still about £80,000 saving in that vote. It is just to be absolutely clear.

HON LT COL E M BRITTO

I thank the Minister for that explanation. Can I go on then to the points that I made yesterday which some members of the Government were absent? On the question of cleaning of highways and the clearing of vehicles for the cleaning thereof, I would say once again that there is a case for looking at the time span that has been made available for the cleaning of those areas. My personal experience, the feedback that I get and having actually looked and sat there and watched the cleaning take place

is that in general terms there is far far too much time allowed for the cleaning in respect to the time actually taken for the cleaning itself. What I am trying to say is that it is pointless to clear an area for three hours if the cleaning can be done in one hour and that in general terms there is a need to look at those time spans to make allowance obviously that the cleaner cannot arrive there at one minute past nine. That I understand but on the other hand if in general terms it takes them half an hour, 45 minutes or even an hour to clean an area it is pointless in keeping the area free of cars for three hours because what happens is that people see that the area has been cleaned, they come, they park and they are clamped after the cleaning has taken place which cannot be the objective of the exercise.

HON J PILCHER:

There are, Mr Chairman, various problems associated with what the hon Member is saying although I accept that perhaps in general terms there is too much leeway. This is something that we looked into particularly in the Devil's Tower Road area because as I said to this House it is the one we have done the longest and therefore it is the one that we have the most experience with. The problems there are various. One, I think the hon Member himself has mentioned, the fact that the litter control areas are spread around different areas and therefore before they actually go to Devil's Tower Road they may have to do Corral Road first. Depending on one, whether Corral Road is clear or not or there has to be clamping and towing away, there is then the problem related to at what time they do get to Devil's Tower Road. What we have tried to do is given ourselves leeway to be able to have a situation where there is possibly half an hour to three quarters of an hour before and half an hour to three quarters of an hour afterwards because we may not encounter the same problem every single week in an area. It may be dirtier, there may be more cars to have to move, there may be specific problems in the area. I would agree with the hon Member that in general terms they are possibly too wide. This is something that given the hon Member's comments we can go back and review that if we say a morning or an afternoon then that is quite clear and quite specific. If we then say 9.30 am to 10.30 am or 9.30 am to 11.00 am it becomes very complicated. It is not the intention of the Litter Control Committee to clamp people after the area has been cleaned but obviously the police reminds us that if the prohibition is 9.00 am to 12.00 pm and vehicles that are there at 9.30 am are clamped even after the cleansing has finished, if we do not clamp somebody there at 11.30 am then the person who was clamped at 9.30 am or 9.45 am has a reasonable case to complain that why him. Again it is

a valid point. I did not know that that was happening. I will check back through the Litter Control Committee and the police to try and ensure how we can perhaps look at what the Member is saying in being more flexible in the time span.

HON P CARUANA:

Mr Chairman, it seems to me to be clear people who park after the street has been cleaned are not obstructing the cleaning exercise and therefore do not deserve to be clamped. It seems to me that all the Minister has to do is to instruct GSSL not to clamp people in an area after it has been cleaned. It is as simple as that.

HON J C PEREZ:

Mr Chairman, if anything the police will instruct GSSL. Ministers do not instruct GSSL and let me make the point that the police have not informed us that that problem exists. There have been vehicles where the owners have found them clamped after the area has been cleaned. That does not mean that they have been clamped after the area has been cleaned. They could have been clamped at 9 o'clock in the morning and the man goes for his car at 1 o'clock and it is the only car there which is clamped and he thinks "They have already cleaned, why have they clamped me?" They have not clamped him then, they clamped him at 9 o'clock in the morning. We do not have reports that that is happening but definitely if that is happening we shall tell the police and GSSL that should not happen.

HON LT COL E M BRITTO

Mr Chairman, I am glad that the Minister makes the point because I can assure him that it is happening. It brings me back to the point I made yesterday that the police tend, with respect to them, to think that parking and clamping as not being their problem any more and maybe that is why the feedback is not coming back. But if the Minister wants to check for himself all he has to do is go down to the commercial establishments in Devil's Tower Road and ask the people who are there on the day of the week whenever it is that the cleaning takes place because it happened to me two days ago. Not that I was clamped but the point is this, that the limit for parking was midday and it was 10 minutes to midday and all I had to do was go into the shop and pick up something and the moment I went into the shop without me making any comment, because I took the risk in parking, the shop employee said to me "Be careful, do not park there because 10 minutes or 15 minutes ago someone did what you have just done and he was clamped". I asked and he

confirmed that it happened frequently. I take the point on difficulties in arriving exactly at areas but there are two points that arise - one is that it seems to me that there is a concentration of cleaning on two particular days of the week, Tuesdays and Thursdays. It seems to me that there is a case instead of having no parking in adjacent areas on the Thursday as happens, anybody who has to park in that area literally has to move his car along if he needs to park there, that it would make more sense to have the cleaning spread out over five days of the week and then there is no parking in one particular area only on any given day and that would be easier for the cleaning people to get to. The second point I would make to take what my hon Friend the Leader of the Opposition said earlier on is that it is extremely easy. In conjunction with instructions to the police and GSSL it is extremely easy just as a board is put up saying "No parking in this area", it is extremely easy to put up a board saying "Cleaning has now taken place and you may park". Once the cleaners have done that there should not be any problem because GSSL know what the situation is.

HON J PILCHER:

Mr Chairman, I have heard what the hon Member has said. I said that I will take it back and have a look at it. It is certainly not easy from the administration point of view to spread it from Monday to Friday because it has got to do with resources and I have a Department that actually tells me what is the best system to use since we are now moving from internal cleaning to external contractual cleaning it may be the time now to look at that and certainly on the clamping after the event I will advise the police for them to have a look at that with a view to seeing whether it is legally possible to do what the hon Member is saying.

HON LT COL E M BRITTO

One final point is that to take it up again the point that I made yesterday outside the litter control areas where an area is designated for cleaning that is not normally a litter control area and the boards are put up. Can I ask the Minister first of all how much notice is being given to the public and how far in advance of the events are boards put up or are the instructions for the boards to be put up and secondly seeing that his estimate under subhead 11 for the Telephone Service has gone up to £17,000 from £10,000 of the previous year, whether he can use some of that money to call people who are in those area and warn them that they have to move their cars before a certain date?

HON J PILCHER:

Mr Chairman, the system that is used now is a system that has always been used. I believe the signs are put up 72 hours before and it is custom and practice, I am advised by the police, that they check the night before and they do advise residents of the area by telephone of the situation. The quip on the side with regard to the telephone service, the telephone service bill for the Environment has gone bigger, not because there are more telephone calls but because there is a bigger Department. We have now got, for example, one part of the Department in the City Hall and another one in Town Range and as the Department gets bigger there are bigger telephone bills, although I must say that following what the hon Member has said the Ministry of the Environment has already gone to CENTREX because it made more sense instead of putting in the new telephone system in the new Departments we have just linked up to the CENTREX system. I agree with the hon Member, a very good mechanism particularly for big departments like mine who spend an enormous amount of the day talking to each other on the 'phone or faxing each other. One other thing, I have been trying to do for the last two years which I am still trying to do in conjunction with the litter control, with the Department and with the police is I am trying to schedule this one-off cleaning that we do over and above the litter control areas and we are trying if we could schedule that at the start of the year. We could in theory and I am trying to convert the theory into practice, for example, have in the Alameda car park a notice that says "On the 26th of June at 9 o'clock in the morning..." and that could be put tomorrow. So what I am trying to do is schedule the thing so that in the majority of cases - it cannot work everywhere - we would have in areas for example where there is one entry, we could have a sign giving two months' notice. The mechanism used now has been the mechanism used for the last five or six years. The police tell me that because they are responsible for that.

HON LT COL E M BRITTO

I want to make a point on the collection of refuse and the centralising areas. To reiterate what was said yesterday, I have noticed that at the top of Crutchett's Ramp the Government have already put in the sort of thing that I was advising yesterday, which is an enclosed area, out of sight of the general public, and goes some way towards ameliorating the hygiene problem and the smell problem though we will not go all the way because obviously it is uncovered. I appreciate the difficulties of doing that in something like City Mill Lane or the Piazza or Irish Town but if the Government cannot achieve

an enclosed area that is out of sight to passers-by then they are not prepared to resume the day to day collection in the morning and encourage people to dump in the bins during the day, then the answer has to be that there has to be more collection during the course of the day but at the moment the system is totally unsatisfactory.

HON J PILCHER:

Mr Chairman, three points made by the hon Member. One, it is our intention to have the central areas like the one in Crutchett's Ramp in as many areas as possible; that is the intention. Secondly, he is right in saying that this is not possible everywhere because of the size problem, particularly in those areas where we cannot do that we will then extend the number of bins to be able to cope. I think a perfect example of that is the ones that we have in Line Wall Road. There were two put there, then there were three put there. They are maintained normally and they are not an eyesore and some Sunday night there could be a problem but in general terms, and I monitor that one because I drive past that very regularly, I do not drive past Irish Town very regularly, but I drive through there regularly, that one is working well. It is the intention to have the enclosed areas and that we have done as well in Prince Edward's Road. We used to have a particular bad area in Prince Edward's Road just under the..... [Interruption] There was a corner there which everybody used to dump there, we have done a central cubicle system there and it is working well. That being the intention we will proceed with that in the majority of the instances. In Irish Town we have already identified an area to create a central cubicle system which will not be seen from the road but unfortunately it might be seen from somebody's window. That somebody shall remain nameless. There is a very active maintenance system now under contract which will ensure that the areas are properly maintained, cleaned every day, disinfected and the bins are changed regularly, Mr Chairman.

HON P CARUANA:

Mr Chairman, I would gladly put up with the sight from my window to which the hon Member has referred in exchange for having it collected more frequently. One of the problems that Irish Town has is that it is in a commercial area and it is also in a commercial area where most of the businesses offer it throughout the weekend. For example, all the wines and tobacco shops, the food shops in Irish Town tend to stay open right throughout the weekend. The result is that there is pressure on the collection capacity of these bins which is much greater than it is in purely residential and this is the special

need in Irish Town, to attend to the collection a little bit more frequently.

HON J PILCHER:

I accept the point, Mr Chairman, that the hon Member is making. This is being taken into account and the intention like I mentioned a moment ago in Line Wall Road is that when the cubicle is done it will have the capacity, not for the day-to-day capacity but it will have a two-day capacity which is the problem on Saturdays and Sundays. That is the theory of it.

HON LT COL E M BRITTO:

Mr Chairman, I would just add so that anybody listening to it does not get the wrong impression, is that Irish Town is not the only area in the town that has these problems. I see it in Cornwall's Lane, for example, I see it at the bottom of Castle Street and the problem, as the Minister has correctly said, it seems to me to be twofold - one, the bins are too small and insufficient in number and secondly, if that cannot be remedied because of the size of the area, if a bin is overflowing as they are in Cornwall's Lane. There are two bins there or maybe three, not more than three, if they are overflowing daily and they are overflowing daily because I pass that way very frequently, by just after 1 o'clock or 2 o'clock, then there has to be too much of it, the bins are too small or they are not collected frequently enough and that is the point that I am making.

HON J PILCHER:

The point that the hon Member is making is a valid point which I have already accepted. One element which I have not mentioned but given the fact that the hon Member continues to refer to the overflowing bins, let me tell the hon Member that one of the major problems of overflowing bins is the fact that we are not well backed by people in the trade because, part of the problem of overflowing bins is not as the hon Member has rightly pointed out, residential refuse, the bins can cope well with residential refuse if only certain commercial entities bothered to fold or break down the cardboard to put it in the bin. What happens is, first thing in the morning the storekeeper comes in, gets his 20 boxes, puts them in the bin, does not bother to cut them into little bits or fold them, and Mr Chairman, after 20 boxes of cardboard the bin is full. The bin is not full if the persons helps us and this is the point that we are trying to make. The only problem there is that it is a very difficult system to enforce. I have said to the Chamber of Commerce on many occasions that we either work

together on this or I may have to look at draconian means of stopping this type of commercial activity because we could put 20 bins in Irish Town and it only takes 20 shopkeepers to put 20 full boxes in it and that is it. Mr Chairman, we have to work together. We are doing that and obviously it has to be in conjunction with the traders, in conjunction with the tenants because the beautifying of an area, the cleaning of an area can only be to the advantage of the residents and the people who live there and the persons who trade there. Unfortunately there are one or two commercial entities that do not seem to understand that the ambience of the street is what is conducive to people going and shopping there.

HON J C PEREZ:

Just to add to what my hon Colleague has said, the law does not oblige the Government to pick trade refuse but as a matter of customer practice it has done so and there has always been a degree of cooperation amongst traders in the way the refuse is put out and the timing of collection and so on. The problem is that ever since the frontier opened there are some areas in the centre of town which are more active than others in their trading, for example from the window of the hon Member he must see that there are traders in that area that work Saturday and Sunday and they produce a lot of cardboard etc. We have been urging for a long time that those traders should make private arrangements to take at least the bulk cardboard, or the bulk wood and dispose of it themselves if that is possible because there is a limit to the amount of refuse that we can collect at any given time. If their activities are making the business prosper then they should perhaps invest a bit in taking away the refuse that is created by their activities. There have been attempts to do that. There have been attempts to coordinate it with one small van for a number of businesses in the area and they always seem to fail. I have not been involved in this for some time, my hon Colleague has, but through experience it is a very difficult thing to get two tradesmen's heads together to do something like that.

HON P CARUANA:

Mr Chairman, having seen the efficiency with which they get their supplies delivered to the shop I cannot understand why they do not have the same efficiency in applying the same degree of efficiency to take away the empties. Perhaps a possible solution to the problem that the Minister for the Environment described a moment ago is to introduce a regulation that requires the garbage to be deposited in garbage plastic bags because if they have

to pay 15p per bag we can be sure that they would not put just one box in it, they would tear it up in little pieces to get as many boxes in as possible and that might be a way of overcoming several of the problems that he has described.

HON J PILCHER:

It is something that we have looked at before. I am glad the hon Member has mentioned it because if we do go down this path then we do so in the knowledge that there is support in the House.

HON P CARUANA:

If it is necessary to resolve the problem, yes, but hopefully it will not be necessary to go down that route.

HON J PILCHER:

It certainly might be absolutely essential that we do that in Irish Town and perhaps that is where we shall start.

HON LT COL E M BRITTO:

Mr Chairman still under subhead 9, can the Minister confirm that the collection of oversized household items like beds and mattresses, i.e. the service that used to be provided going round town collecting where a person would ring up a department of Government and a van would come round and collect by appointment as it were, heavy items of household furniture etc. can he confirm that that service has been discontinued and if so what is going to replace it?

HON J PILCHER:

Mr Chairman, it is not absolutely correct to say that the service has discontinued totally but the service will be discontinued. It is something that will be happening over the next couple of weeks where we will have a compound which is now being prepared at Cumberland Road where any member of the public can go at any time, 24 hours a day, to deposit different items of rubbish in different areas. The reason why we have done that is very simple. We will maintain the service certainly for pensioners and certainly for any person who requires that support. What we felt as a Department is that it was I would say immoral to have somebody buying a house, somebody buying £20,000 or £30,000 worth of furniture and then what it costs to dispose of the furniture is about £50 but instead of putting that £50 into his budget to buy his house, he put the new furniture in and dump the

new furniture out and there comes the Department, and the Government, with taxpayers' money to collect that. We are going to look at the cases, certainly pensioners, there is no doubt about it, we will maintain that service for pensioners and we will maintain that service for anybody who requires the help of the Department but not as a general rule. It has not happened yet but it will be happening and over the next couple of week we will advise the general public exactly how the system will work.

Head 5 Environment stood part of the Bill.

Head 6 Fire Service

1. Personal Emoluments was agreed to.

Other Charges

HON F VASQUEZ:

Are there any industrials employed in this Department?

HON J C PEREZ:

If there is there is only one, something like the cleaner or the handyman. I think there is an element of cleaning but only that.

Head 6 Fire Service stood part of the Bill.

Head 7 Governor's Office.

1. Personal Emoluments was agreed to.

Other Charges

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps I should draw the hon and gallant Gentleman's attention to the fact that the charge for telephone services in the Governor's Office, 54 per cent in excess of the estimated announced for 1993/94 is, I think, the biggest increase of any head in the budget this year. However, he might also like to look at the Financial and Development Secretary's Office use of telephone services when he comes to that.

HON LT COL E M BRITTO:

Mr Chairman, I said, when I made my point on the telephone service that it was not - although I took the first opportunity because it was the first Head, Buildings and Works - aimed at that Department but at all

Departments that appear in these Estimates and my comments apply equally to the Financial and Development Secretary's office and to the Governor's Office if I think the amounts being estimated are not adequate then the Estimates should be increased but obviously they should be either controlled or correctly estimated.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is a different story to the one he was uttering earlier in the proceedings, Mr Chairman, but nevertheless I will let it pass.

Head 7 Governor's Office stood part of the bill.

Head 8 House of Assembly

1. Personal Emoluments was agreed to.

Other Charges

HON P CARUANA:

In relation to item 2, last year I raised in connection with the delays experienced in the production of Hansard I raised the problem that one of the issues was not the shortage of labour but one of the problems was that the typist in the ante-room there has a word processor to which is attached a printer which does not allow her to carry on typing whilst she is printing. That technology became obsolete five years ago. The idea that a typist should be watching a screen with her arms folded whilst the machine prints what she has been typing over the last hour must appeal to the Chief Minister with his obsession for efficiency as a crassly inefficient way to employ labour and that if only he spent £500 in buying a modern printer to attach that allowed her to not to print on the line by line basis that is now happening, it would speed up considerably the production of Hansard but that by itself would not be enough. He heard me say during the second reading that I thought that more secretarial resources at least for the production of Hansard, perhaps farming it out to other Government Departments, might be enough but certainly those are the two elements, the adequacy of the equipment and the availability of typing resources.

HON LT COL E M BRITTO:

Mr Chairman, I cannot resist the temptation to congratulate the staff of the House for, under item 7, not only sticking to his estimate on the cost of telephones but actually being below the estimated cost.

HON J C PEREZ:

It must be because we control the Opposition Members from using the telephone when they are here.

HON LT COL E M BRITTO :

Obviously the Opposition Members do not make excessive calls when the House's forecast outturn is underneath its estimate.

HON P CARUANA:

I think it is attributable to our good financial management that the only telephone that both the Opposition and the Government can use is within budget and the telephone that only the Ministers use are over run to above that. I think it speaks volumes for the handling of public monies.

HON F VASQUEZ:

Item 10, Recording of Proceedings, I really wonder whether somebody could give an explanation. I am not clear. I understand obviously that until a year or two ago when we had staff sitting there actually recording the proceedings one can understand the expenditure but as far as I understand it now that the Clerk operates the recording machines I find it difficult to see how we can incur expenses of £10,000 a year just for the Clerk operating those machines.

HON J C PEREZ:

Mr Chairman, the hon member will recall in this House agreeing to the hire of the equipment and to the hire charges of the equipment. It is also the maintenance of the equipment which is done by the same firm. In fact it is Gibtel.

Head 8 House of Assembly stood part of the Bill.

Head 9 Justice and Law Department.

(1) Supreme Court

1. Personal Emoluments was agreed to.

Other Charges

HON F VASQUEZ:

Again I find myself having to ask this question. Does the Minister concerned have a tally of the industrials employed in this Department?

HON J C PEREZ:

There must be an element of cleaning in every Department and the cleaners are industrials. The messengers are non-industrials. I would say cleaning only.

Other Charges was agreed to.

(2) Magistrates' and Coroner's Courts

1. Personal Emoluments was agreed to.

Other Charges was agreed to.

(3) Law Officers

1. Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 9 Justice and Law Department stood part of the Bill.

Head 10 Personnel

1. Personal Emoluments was agreed to.

Other Charges

HON LT COL E M BRITTO:

Mr Chairman, there seems a rather drastic increase in the provision for item 2. after the forecast outturn has been lower than estimated. Is there any reason for that?

HON J C PEREZ:

I suspect it has to do with cleaning but I will find out once we carry on and I might be able to provide a reply to the hon Member.

HON LT COL E M BRITTO:

If it helps the Minister, it might well be linked to the increases in items 7 and 8 which I have not yet come to.

HON J C PEREZ:

It is as a result of the extra offices of the Social and Probation Unit that they have taken, it is partly the cleaning for that and the other part is that the accommodation of the TGWU convenor that used to come under Buildings and Works before now comes under Personnel.

Head 10 Personnel stood part of the Bill.

Head 11 Police

1. Personal Emoluments was agreed to.

Other Charges

HON LT COL E M BRITTO:

Mr Chairman, under item 20 the spiralling cost is self-evident. Can I ask first of all the reason? Are we talking about security expenses only in terms of immigration or are we talking about expenses of immigration and security for items that have nothing to do with immigration?

HON CHIEF MINISTER:

Mr Chairman, this is primarily the cost of the contract at the air terminal which came in post last year's budget during the course of last year. This is why the amount of the forecast outturn is £100,000 more than the token figure that was there of £2,000 because it was for less than 12 months and the provision is for the full 12 months of the contract and it was compensated by a saving in personal emoluments where what we did was we allowed the police force to keep some of the savings, i.e. if a policeman costs £18,000 or £19,000 and having done the thing through contract was going to cost £10,000 then we allowed them to retain 50 per cent of the saving that was being made by contracting the work out.

HON LT COL E M BRITTO:

Mr Chairman, following that explanation as the Chief Minister knows this party opposed publicly the handing over of the immigration facilities at the airport to non-police personnel. In that context can the Chief Minister confirm that it is not the intention of the Government to take similar steps at the frontier and to remove policemen from doing immigration duties at the frontier and to put this out to civilian control?

HON CHIEF MINISTER:

I can only confirm that there are no plans to do it but I cannot confirm that it will never happen. It might or it might not. Certainly, the view of the Government is that the work of an immigration officer has been done in the past by a police officer because it had been the decision to do it not because there is a requirement in law that it should be done by a police officer. Any person can be appointed to be the Immigration Officer, nor is it the norm in other countries in Europe that it is police work. In some places, for example, in the United Kingdom I believe that they are done by the customs, in other places they have got different arrangements. Therefore, what we have done here was to integrate the security and the immigration role in the terminal to release policemen for more important police duties than simply being there looking at a passport. What I have said is that if they have, for example, I cannot remember the exact figures so the hon Member must accept, Mr Chairman, that what I am telling him is so that he understands the exercise that we did. If there were, say, eight police bodies provided for that work and we were able to say the cost of having eight civilians is less than eight police bodies and there is a saving, then we did not remove from their personal emoluments the equivalent of eight, we removed from their personal emoluments the equivalent of the cost of the contract plus a little more which might have meant that we actually removed the work of eight policemen and removed the pay of six policemen and left them with the pay of two policemen and therefore two bodies that they could re-deploy to other work. That was the exercise that was done there. We have no plans to do a similar exercise in the frontier but we have got no in principle ideological objection and therefore it might happen but we are not planning that it should happen in this year.

Head 11 Police stood part of the Bill.

Head 12 Post Office and Savings Bank and Philatelic Bureau.

(1) Post Office and Savings Bank.

1. Personal Emoluments was agreed to.

Other Charges

HON LT COL E M BRITTO:

Once again the spiralling cost is self-evident, Mr Chairman, under item 5 I cannot believe that there is more mail that has been generated, I assume some change

in the system. Could we have some idea of the increased cost of the conveyance of mail?

HON J C PEREZ:

Mr Chairman, this has to do with the bulk mailing and the hon Member will see that in the revenue there has been an increase which offsets the expense of paying the civil administration for more. When mail is sent to other administrations they charge for it so we are conveying to other administrations more mail but then we get the benefit of it. It is under the sale of stamps. He will see that there has been an increase and it is offset by revenue.

Other Charges was agreed to.

(2) Philatelic Bureau

1. Personal Emoluments was agreed to.

Other Charges

HON F VASQUEZ:

Subhead 5, conveyance of mail, the Minister referred us to the revenue secured by the sale of stamps, I can only find the revenue on the sale of stamps at page 11 yet the forecast outturn for the revenue yielded by the sale of stamps is £65,000 more whereas in fact the expenditure forecast outturn is increased by £100,000 more. Is the Minister satisfied that in fact the Department is making a profit from this increased handling of bulk mail?

HON J C PEREZ:

We know that we have not lost money but we are rechecking whether in fact we are actually making money out of it. The difference between the estimate and the outturn is £170,000. The hon Member is looking at the difference between the outturn and the estimates for next year.

Other charges was agreed to.

Head 12 Post Office and Savings Bank and Philatelic Bureau stood part of the Bill.

Head 13 Prison

1. Personal Emoluments

HON LT COL E M BRITTO:

On Personal Emoluments, item (d) I am intrigued why if there is a record of overtime in the prison why does only a token £100 estimated, is there a change of policy or are we expecting less prisoners?

HON R MOR:

No, Mr Chairman, there is an agreement with the prison wardens that any overtime is part of their general agreement on their conditions. The overtime reflected here is that when Newall was here and now it has gone back to normal because Newall has gone, it is just a token.

HON F VASQUEZ:

On that point, Mr Chairman, I do recall that we asked questions about this point at the time. Did in fact the Government of Gibraltar get any sort of help from Jersey to cover the Newall extradition or not? I know I raised it at the time. I gathered there was, as a result of my raising it, it was raised in the Parliament there.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, the hon Gentleman might wish to know that we in fact have raised with the States of Jersey in a gentlemanly way the question of their remunerating us for the extraordinary expenses which we incurred during the time which Robert Newall was in custody. I have had a sympathetic response from them so far but their internal bureaucracy is still considering the matter and I am expecting a reply to our claim for reimbursement in the near future.

HON F VASQUEZ:

What is the amount of the claim for reimbursement that was made on behalf of the Government?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The hon member has to bear that I cannot recall, it was quite an extensive one. It came to more than £100,000; of that order.

HON LT COL E M BRITTO:

Mr Chairman, I cannot resist the temptation to say that in terms of the budget of Jersey, there are reserves and the healthy state of their economy compared to ours, I

think that £100,000 is something that they can well afford.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Ignoring the obvious political undertones of that, Mr Chairman, I would agree. I think it is customary for governments to observe some reciprocity but our case is based on the quite extraordinary circumstances or Mr Newall's detention.

Head 13 Prison stood part of the Bill.

14. Secretariat stood part of the Bill.

15. Support Services

1. Personal Emoluments was agreed to.

Other Charges

HON LT COL E.M. BRITTO:

Mr Chairman, I have to comment on the cost of disposal of refuse, a point that I did make in the general principles and to make the point that this has escalated from the figure of £370,160, that was what the actual expenditure in the 1986/87 to the figure that we see before us of roughly £1.3 million and I have to ask whether the Government are satisfied that enough is being done to economise if necessary in this area or whether the way that figure is spiralling and the way it has gone up is almost three and a half times.

HON J C PEREZ:

Mr Chairman, it is not a question of economising, he is talking about the year that we did not do refuse collection, that we were sending half of it down the chute into the sea and the other half of it was laid across the streets of Gibraltar. That is the figure that the hon Member is quoting when in 1988 we came in I remember roughly that the operation of the old incinerator used to cost between £600,000 and £700,000 to run and the hon Member should note that in this figure there is the capital element which is the replacement of the incinerator because the contract provides that at the end of the 20 year period the incinerator belongs to the Government of Gibraltar and we are, therefore, here reflecting a capital cost as well as a recurring cost for the collection of refuse because that includes the provision of the new incinerator built by Baltica which does not work as perfectly as we would want it to work. That is why the cost escalates in the manner that it does

but the figure of £370,000 that the hon Member has mentioned does not reflect the real figure of the cost. The real figure of the cost of disposing of refuse before which was only the incineration of it, that does not include the burning of carcasses, the burning of mattresses, the other problem issues we found when we came into office. The figure was around £600,000 to £700,000 and the figure now is an escalating one as a result of the contract with Baltica which will continue to escalate but includes the cost of replacing the incinerator.

HON LT COL-E M BRITTO:

Two points arise out of that. First of all, if there is an element of capital expenditure why it appears under disposal of refuse under recurrent expenditure and why does it not appear under the I&D Fund and capital expenditure or even if, technically, it should appear under recurrent expenditure why is it not shown separately so that we can monitor more accurately the cost of the disposal of refuse? The second point is I have to say to the Minister that his memory is either failing him or in any case the figures that he was quoted are totally wrong. I have the figures here in front of me. I quoted the figure for 1986/87 precisely to make the point that it was a year before they came into Government. It is obviously nonsense to say that rubbish was not being collected and disposed of. The Minister is saying that it was £600,000 to £700,000, that is wrong. In 1987/88 when this Government first came into power, according to their own figures published in this House, the disposal of rubbish was £453,594. I am drawing the parallel that the Minister is saying that rubbish was not collected or disposed of. In 1986/87 actual expenditure was £370,000, 1987/88 it was £453,000, it then went up to £665,000 in 1988/89 and down to £529,000 the following year. This is purely the disposal, the collection is a similar set of figures at the same time. In 1991/92 it was £830,000 and the last actual figure that we have is 1992/93 which is £1.1 million. So the point is that one it is escalating, and two whether the Government will consider showing the element of capital expenditure separately and can they give us any indication this year how much of the forecast outturn and of the estimated figure for next year is capital expenditure and how much is the cost of actually disposing of rubbish?

HON CHIEF MINISTER:

There is no capital expenditure here. I do not know what the hon Member is talking about. No, the cost of the capital expenditure is recovered by the person that made the capital expenditure in the net price negotiated per

ton of refuse. So it is not that it said "If we did not have an incinerator it would cost £1 a ton" because if we did not have an incinerator it would cost nothing because we would then go back to what his Government would do which is put it over the lighthouse that is why it was so cheap. If I could send all the rubbish up to the lighthouse and put it over the edge, I could take a £1 million off this vote. Unfortunately, I am not allowed to do it by environmental laws to which we subscribe which would lead to infraction proceedings being taken against us and therefore we have no choice but to do something better than the AACR used to do in 1987/88. The hon Member opposite, has no need to exert himself to try and persuade me to spend less money. It is just that we had no choice when we came in but to find an environmentally acceptable alternative which would not land us in the European Courts. Since we did not have the capital to invest to replace an incinerator which was broken 10 months of the year, so we used to burn rubbish twice a year and spend five months doing the maintenance of the incinerator and during those five months we dumped it over the lighthouse. That was what used to cost £0.5 million. We cannot go back to that. In the development of a new incinerator of all the proposals that we looked at the only proposal that we had which was one where the full capital cost was being made by a private investor on a package which was designed, built and operated was one where we guaranteed every year a payment which would justify the investment from the operator, otherwise we would not have had an incinerator and that payment means that we are contracted to burn X number of tons of rubbish at X price. If the rubbish is not there we still have to pay for it. So the answer is that this is based on the agreed tonnage and an assumption that the amount of rubbish would go up every year. At the end of the day the real essence of the contract is that the incinerator is supposed to show for the investor a return and a recovery of the investment over 20 years of life and the annual payment over the 20 years of life are what we would have had to make ourselves had we had the money which we did not have to the original investment so there is not an element that one can say is the element of capital. That was worked out by the investor who said, "For me to invest, say, £30 million I will require a contract which says I will receive X pounds a year" and that X pounds a year is based on so much per ton and so many tons. At the moment we are burning in the incinerator less than we are paying for because obviously one of the elements in the capacity of the incinerator which I mentioned in my original speech on the general principles of the Bill, is that we recognised that we have provided capacity in excess of the existing demand because it is quite obvious that if we have got a situation where we have got buildings that have not been

let, the capacity of the incinerator allows the rubbish that will come from those buildings when they are let. What we cannot do is say "We let the building but after the building is occupied we will provide it with electricity, water, refuse incineration etc". No, all the services for all the buildings that are not currently utilised are already in place. We have got spare capacity to beyond the year 2000 but we have to pay for that capacity whether we use it or not because if we had invested the money ourselves de facto we would have paid for that capacity without using it up front. We have to pay for it over the 20 year line.

HON F VASQUEZ:

That answer begs the question, under the agreement with Baltica for the management of that refuse incinerator, have the Government contracted to buy the refuse burning services up to the full capacity of the machine or is there a reserve capacity which is not being contracted?

HON J C PEREZ:

We shall reach the level of full capacity in year ten I believe. We have built up to year ten where we have to pay for the full capacity, whereas that full capacity is available today but the responsibility for paying for that is Baltica's and not ours. Just to mention that the figures that the hon Member used as well had another one attached to those years which was the one in the Improvement and Development Fund for the continued repairs and materials to the old incinerator which would be a fair comparison with this figure which was not included in the figures of the hon Member.

Head 15 Support Services was agreed to and stood part of the Bill.

Head 16 Trade and Industry was agreed to and stood part of the Bill.

Head 17 Finance and Revenue Collection Services was agreed to and stood part of the Bill.

Head 18 Reallocations and Subventions.

HON H CORBY:

Mr Chairman, in the Estimates for 1993/94 on Head 17 (5) - Subhead 7 Handicapped Support Services the amount there was £511,000 and on the 1994/95 Estimates on Head 18 - Subhead 9, it is £580,000 which is an increase of £59,000. Will the Minister explain whether this takes into account the Home as well?

HON R MOR:

That is precisely what it is, Mr Chairman.

HON H CORBY:

Does the Minister state that this is the £69,000 that will take care of the opening for the whole year of the Home and the expenses that it incurs? Perhaps, Mr Chairman, it is appropriate at this stage to point out the risks that have arisen again regarding the Dr Giraldi Home and for the working of the handicapped. Would it not be advisable to have proportional representation on the management board so that no entity has the majority vote and thus decisions can come in on a consensus basis?

HON J C PEREZ:

I am intervening because I am sure the hon Member is reacting to the letter that has been made public this morning in the Chronicle and I think the Member perhaps ought to be informed of all the other factors in it and perhaps it would be better to do it outside this House so that we do not deteriorate the situation for the betterment of the Home and the people that are living there.

Head 18 Reallocations and Subventions was agreed to and stood part of the Bill.

SCHEDULE PART 2

IMPROVEMENT AND DEVELOPMENT FUND

Head 101 Buildings and Works was agreed to and stood part of the Bill.

Head 102 Schools and Sporting Facilities was agreed to and stood part of the Bill.

Head 103 Tourism and Environment was agreed to and stood part of the Bill.

Head 104 Support Services.

HON H CORBY:

Mr Chairman, there is an item here on subhead 10 - Police Launches for £100,000. Will the Minister explain what this is in aid and what is the use of those launches?

HON CHIEF MINISTER:

There is in fact on the revenue side an equal amount. This is money provided by the United Kingdom Government to assist us in the control of the area around our waters as part of our contribution to the prevention of drugs smuggling between Morocco and Spain. This is why they have a particular responsibility in this area. It was something that was raised when I was in London in the recent conference. I think it was made public by His Excellency the Governor not so very long ago. Effectively that is supposed to produce the equipment the police think they require to replace what they have got at the moment which frankly we would not have been able to replace if we had to finance it and to give them all the necessary ancillary equipment to go with it.

Head 104 Support Services was agreed to and stood part of the Bill.

Head 105 Water Services and Waste Disposal was agreed to and stood part of the Bill.

Head 106 Electricity and Public Lighting was agreed to and stood part of the Bill.

Head 107. Industry and Development.

HON P R CARUANA:

Mr Chairman, on items 5 and 6 have the projects actually been identified or is this quoted so it can be used as and when projects are identified during the course of the year, almost on a revote basis?

HON CHIEF MINISTER:

We have got them identified but not necessarily approved and therefore it would be a mistake to put a project and then find that we do not get the approval for it and then we have a problem in using the money so we thought the wisest way to proceed was to put it in. The Konver funding for the project of £613,00 we are almost certain to be able to spend on the projects that we have put forward because they are fairly small projects. I have mentioned the inward investment consultancy. That is coming out of there, and things have already happened like the refurbishment that has taken place in Princess Caroline's Battery by Sights Management. They are all tiny things like that of former MOD sites. The £1 million of the objective is just really a figure that we are putting there to make sure we have got the money in there if the green light is received.

HON P R CARUANA:

Can the Chief Minister say how many projects he has identified?

HON CHIEF MINISTER:

There is a fairly extensive list and they are broken down into different segments. For example, there is related to improvement of tourist infrastructure, we have got things like improvements to the area of arrivals of the liners at North Mole. We have got a programme for an improvement to the outside of the South Mole where the Canberra comes. The agents have for a number of years been making representations to the Government that we could lose the visits if we do not improve the access for passengers so that they can go along the outside instead of having to go through the shipyard. Again, they are related to objectives in terms of improvements in infrastructure and improvement in roads but one of the conditions laid down by the European Community is that we cannot use the money to improve the roads simply because of, say, traffic congestion or because the roads need surfacing. There must be an identifiable economic objective because obviously the purpose of the aid is that the economy should benefit from it. Our argument on the liners would be that improving the reception area where the liners berth, the liners will be more likely to want to keep on coming to Gibraltar but if we were to try and improve the road at the parking problem in the Moorish Castle Estate the answer is that we would get rejected. What I am saying is that in putting a list of roads that we want to do and things like that, the final approval is based on the technical work which is being done by our people here through Mr Wells who came with the Minister to open the Europa Business Centre. He is the one really who made the submission to the European Commission and then comes back and tells us "Look, they have said yes to this particular road and not to the other one". It is infrastructure of that nature involving improvements of that type where we are drawing a link to an economic objective in order to qualify for the funding. Frankly, it is unlikely that we will be able to spend £1 million this year although we have put that sum in because Mr Wells told me when he was here a couple of days ago was that we would be lucky if we got an answer much before November.

HON P R CARUANA:

Does the fact that under estimated cost of project it says £7 million mean that we can spend up to £7 million and is there a period of time? In other words have they voted £7 million and placed a time limit?

HON CHIEF MINISTER:

We are funding 50 per cent of that. The £7 million is the UK allocation to us on a regional basis of the regional funding that the EEC has provided the UK as the Member State and it is £3.5 million over a three year period.

Head 107 Industry and Development was agreed to and stood part of the Bill.

Clauses 2 to 4 were agreed to and stood part of the Bill.

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

THE FINANCIAL SERVICES COMMISSION (AMENDMENT) BILL 1994

HON CHIEF MINISTER:

As the House is aware when we agreed to defer taking the Committee Stage it was in order to reflect to the Chancellor the views that had been put to us by Opposition Members which, in the main, were points we had already made both at the meeting that I held in London and subsequent to the meeting the representations in the consultation process with the different segments of the industry. There were, nevertheless, a couple of new points that were raised by Opposition Members at the Second Reading of the Bill. I had my office summarising the points that were made and they sent a letter to London on 5 May to which we had a reply a couple of days ago. They also sent a copy of the Hansard which transcribed what the hon Members had to say so that they could read it for themselves. I summarised the points and therefore I would read to the House the reply that Mr Clarke gave so that we have got it on the record:-

"Thank you for your letter of 5 May. It is disappointing that the amending financial services legislation did not complete its passage through the House of Assembly in April." The House will remember that I had told him it would be done in April. "but I am happy to clarify some of the points raised by Members of your Opposition parties." He knew that Mr Cumming was going to go his own way already. "I look forward to hearing of the successful passage of this legislation through the House once it has reassembled. Points (a) and (b) of your letter, which were:-

(a) that the Bill represented a step backwards constitutionally and that it was the collective aspiration of the House to move towards maximum self-government and responsibility for our own affairs and

that the letter of 31 March did not give adequate comfort that it was not a precedent." He answers by saying that "These two points concern the related claims that the Bill represented a step back constitutionally and the beginning of an erosion of Gibraltar's Constitution. I would emphasise again that to the extent that the new requirements are introduced by these legislative changes they arise not within the UK/Gibraltar relationship but in the wider context of Gibraltar's inclusion within the European Community, a status which all political parties in Gibraltar have welcomed. Her Majesty's Government is ultimately answerable for Gibraltar within the European Union and this responsibility gives us an unavoidable interest in Gibraltar's full and proper compliance with EEC law, but as I said in my letter of 31st March we do not envisage that the line of accountability established between the Financial and Services Commission and the Foreign and Commonwealth Secretary are setting a precedent for other sectors. Moreover, it has always been clear that for operational purposes the Financial Services Commissioner will be independent of the Government of both the United Kingdom and Gibraltar. I see this as entirely consistent with the long-standing relationship between the two Governments." The only point I would make on that is that I hope that that persuades hon Members, as I tried to do in my answer in October last year, that the warmth or coolness of the relationship between us and whether that relationship is at its lowest ebb as one of the two parties in the Opposition believes, clearly is not the consideration and now the Chancellor has been good enough to put that on the record because he says the relationship between our two Government is not altered. Hon Members can draw their own conclusions about what the relationship is but it is not altered. Point (c) was the question of the qualifications and I wrote saying that the view that had been expressed was that it verged on the offensive since Gibraltar's accountants, solicitors and barristers were all qualified in the United Kingdom and none of these professions are able to qualify in Gibraltar. The reply to point (c) refers to the qualifications of the members of the Commission, "As we had earlier indicated we would be happy for the relevant section to be amended to make more precise the point that the four UK members of the Commission will have the necessary experience in the UK and the three Gibraltar members shall have a similar level of experience in Gibraltar. Perhaps I could suggest the following wording" which is the wording in the amendment that we circulated so I do not need to read that but I think what that paragraph indicates is that although they were saying "with UK qualifications" they were really thinking of UK members all the time because they made it clear enough. (d) was that the provisions of clauses 5 and 6 were not acceptable. His reply to

point (d) was that my letter expressed concern about incorporating UK law into Gibraltar law by a backdoor. He says "It may help to clarify matters if I reiterate clearly that Gibraltar is a separate jurisdiction from the United Kingdom within which Gibraltar law applies. The Commissioner and the Commission must operate under Gibraltar law and the application, establishment and implementation of standards matching those in the UK must be achieved by Gibraltar legislation or be compatible with it. The changes we have proposed therefore do not mean that the Commissioner can make law by the backdoor nor that UK law applies in Gibraltar. On your final question on point (d) the responsibility of the Commission may include areas where relevant EEC law does not give passporting rights. It is nonetheless important that EEC obligations in these areas are complied with; a requirement most easily demonstrated if the corresponding UK standards which can be taken as a proxy for EEC requirements are matched". I do not know to what extent that adequately meets the arguments that were put by Opposition Members but I think it is worth my having read it out because as far as I am concerned if they have not come back with anything that amends the law at least at the time as we have got the record of what it is that we are voting, we have got a record of what it says it means. The law will still be the law but if somebody then tomorrow tries and says the law means something different then we ought to be able to produce the record of the Hansard which shows not just what the law says but what the Chancellor who is the one who is recommending this law to us, says it means.

HON P R CARUANA:

Mr Chairman, I wonder if the Chief Minister is able to lay that letter for the House, or otherwise make it public as he did the previous letters so that of course it is not just in Hansard on the basis of a transcriptional reading of it by the Chief Minister but the whole of the letter should be officially on the record.

HON CHIEF MINISTER:

I am quite happy to do the same exercise we did before and publish both letters in a press release and to give Opposition Members copies of it before I do that.

HON P R CARUANA:

The question of the publication in a press release is not what I had in mind but, of course, I have no objection to it, simply that the whole of the letter should be in the public domain as far as this House is concerned.

HON CHIEF MINISTER:

As far as I am concerned, Mr Speaker, in reading the letter as I am, I am actually not omitting anything from Mr Clarke's letter. I am just making some reference to my letter to him so that the House knows what (a), (b), (c) and (d) mean, otherwise we would not know what it was. In fact, I am reading everything that he says and therefore the record will show the whole letter. Point (e) dealt with the transposition and the extension of the provisions of confidentiality which hon Members felt very strongly about and his response is "Point (e) of your letter concerns the confidentiality provisions which we have proposed. The Opposition should note that as I remarked above for operational purposes the Commissioner will be independent of the Governments of both the United Kingdom and Gibraltar. I judge this will enhance rather than undermine the level of confidence in the operation of the financial services in Gibraltar. I hope that this reassures the Opposition". I hope so too. "I am sure they will understand that the cooperation between regulators is a fundamental plan of supervision in the single market and for this to take place properly there must be exchanges of information. In no other Member States is disclosure required to take place only under the authority of a Court order and I see no need for such a novelty in Gibraltar." I think one can see the hand of Mr Clarke in the way he expresses himself there, I would not have thought it was precisely a novelty but obviously he thinks. "On the specific point about compliance with the directions of the Supreme Court, I agree that this is axiomatic but this section concerns a general prohibition and where this is the case I believe that any exception, even such an obvious one, should be specifically covered in legislation". Frankly, I do not see the nature of the argument but it does not change anything in that particular point because in fact what the hon Member was saying was that one would expect a court order to be complied with whether the law said he should or he should not. It is not that we are saying we do not want them to comply. Quite the reverse. It is certainly not one that we are going to quarrel with the Chancellor over. He then goes on to say, "It is also worth noting that the specific points raised by the Opposition concerned wording which is, as your letter of 5th May noted, identical to that already employed in the Financial Services Ordinance" although, of course, the point that the Opposition Member made was that this is a different angle of the Financial Services Ordinance..." although in the context of this Ordinance the Opposition will be reassured to note that the new wording at the end of Section 23(2) (providing always that any such disclosure is consistent with any applicable EEC obligations)

introduces additional protection by subjecting any disclosure under the sub-section to the test of compatability with any applicable provisions of Community law governing the disclosure or supervisory information. Point (f) of your letter conveyed the Opposition's concern about the attribution of the cost of regulation. I am sure you will agree that a certain level of regulation is a worthwhile end in itself which should, for reasons of good government, and in order to enhance Gibraltar's reputation..." we must add to the list of all the other things that are needed "... apply even in areas which may not yet be subject to EEC regulatory directives. All sectors of the financial services industry in Gibraltar should be expected to contribute to the cost of such regulation. There are obvious advantages in having a single regulatory body which would save overheads and promote efficiency and flexibility. I agree entirely that the meetings of the Financial Services Commission should take place in Gibraltar; point (g) of your letter. This has always been our expectations and I am surprised that anyone has suggested the contrary." So says Mr Clarke, end of letter. The only margin of manoeuvre that it seemed to me we had at the end of this letter was that if he was so surprised that anybody should have suggested the contrary, then let us introduce an amendment which makes it impossible for anybody to say the contrary and that is really the only Gibraltar Government input in the entire Bill that we are commending to the House.

HON P R CARUANA:

I have got no great desire to consider this Bill now, clause by clause, still less to consider the amendments. There are some general points that I want to make by way of placing on the record my reaction towards what the Chief Minister has just read. If the procedures of the House permit it, I am quite happy for the Bill to stand amended as per the letter.

Mr Chairman, I do not think, with the greatest of respect to the Chancellor of the Exchequer his reply does justice to any of the points that we raised with him; that we have no choice but to lump it should not be misinterpreted by anybody as a measure of the merits of his arguments simply the fact that he happens to have the whip in his hand and not us. Given the restatement of the Chancellor that the Commission is intended to be independent of both Governments, I find the new definition of qualified person..... In other words, the amendments that we are making to who is qualified to sit on the Commission, are still more offensive than they were before in the sense that what he is really saying is that these Commissioners are all independent of both

Governments, i.e. also independent of the British Government. Therefore if we are to accept at face value the statement that the British Government will seek to influence in no way the four UK nominated Commissioners. What he really is then saying is that professionals practising in Gibraltar are incompetent to participate in the Commission because if what he is saying is that the UK are not going to seek to influence the thinking of the four English appointees but that nevertheless ought to be practising in England and not in Gibraltar, what he means is that independent professionals practising in London are fit to regulate the financial services in Gibraltar but that independent professionals practising in Gibraltar are not. Frankly, the only justification that there was for naming four people from England is if indeed the British Government was going to exercise some control over regulation through them but they are not going to do that because if we assert that they are independent of him, then all we are left with is with the insult and not with the constructive element of it. Really what he is saying is that a barrister and an accountant who practice in the City of London are more fit than a barrister or an accountant who practices in Gibraltar to participate in the regulation and, frankly, he has, by reaffirming the independence of his nominees from the British Government, extracted from the formula the only possible justification for it. As to the point made by the Chancellor that there is no intention to introduce legislation by the backdoor, I endorse the remarks made by the Chief Minister that we may well have to depend on this statement as to what the intention is and in due course say that the fact that the law enables the Commissioner to take a different view, does not actually mean that he is free in practice to do it because this is what the Chancellor said and this is his term of reference. I am a little bit doubtful having said what we would want to hear, namely that Gibraltar regulations had to be by Gibraltar legislation, what does he then mean when he says "or be compatible with it"? Either it has to be by Gibraltar legislation or it can be by Gibraltar legislation and by some other means. The words "or compatible with it" must presumably add something to the words "by Gibraltar legislation". It is clear that what the Chancellor is saying is that the Commissioner will be entitled to apply United Kingdom standards, albeit that they are not embodied in Gibraltar regulations, provided that those English standards are "compatible with". Careful choice of words because compatible means not inconsistent with, which lets in everything that is not specifically excluded by the terms of our legislation. Not only the fact that there are five words added to the words after "by Gibraltar legislation" but the actual choice of words "compatible with" I think confirms the fear that I was raising when I

first made the point that this opens the door for the Financial Services Commissioner to look to the English statute book, say "These are the statutory standards required in the United Kingdom. I have looked in the Gibraltar law, there is nothing incompatible" which is the significance of his use of the word compatible, "with that in Gibraltar law. Therefore according to the words of the Chancellor I am free to apply United Kingdom legislation to Gibraltar." He is not giving me any comfort at all. What he is actually doing is confirming in clearer language than I suspected originally that this possibility remains open. Mr Chairman, as to the question of confidentiality, I accept that the strength of these arguments are weakened by the fact that these provisions were in the original ordinance. I accept also that the Chancellor is right when he says that it is habitual for regulators to exchange information but it is habitual for regulators to exchange information in connection with their duty to regulate. In other words, if a regulator in Switzerland in order to perform his regulatory responsibilities in Switzerland needs information in Gibraltar, for example, to see if a Swiss bank is breaking Swiss regulatory practices by what it might be doing in Gibraltar, it is quite understandable that the Gibraltar regulator should provide his Swiss counterpart with local information that he needs in Switzerland. What is not normal is that the flow of information abroad should be in connection with the prevention or detection of crime because that does not limit the request to the regulator. That means that the regulator can send down the line requests originating not by him as regulator but by the head of the Fraud Squad or by the Commissioner of Income Tax or by the Collector of Customs in another jurisdiction and we have got to remain vigilant that that does not happen. We have got to find the practical mechanism to ensure that this statutory provision is not used for that purpose because if it is, it is a kiss of death. It will represent a kiss of death to the finance centre in Gibraltar and not just to the regulatable activities but to all activities.

Mr Speaker, on the Second Reading of this Bill the Opposition abstained and we abstained to abide the results of the delay in considering the Committee Stage that might follow. I think that we are not really legislating in this House. When a parliament considers legislation, what I am doing when I stand up as Leader of the Opposition is making what I consider suggestions to improve the legislation in the hope of persuading the Government that it would be an improvement so that collectively the House then legislates what I would then regard to be improved legislation. It seems clear from what has been said both before this meeting of the House and during this meeting of the House that in fact this

Parliament is not in fact free to tinker with the contents of this legislation. Therefore, let us not delude ourselves into believing that what we are doing is performing the normal legislative function. What we are doing is exercising a choice. Either we take it or we leave it. In other words, either we accept the new Financial Services Commission (Amendment) Ordinance in order to be able to secure access to the European Single Market in financial services or we do not. I am prepared to proceed on the basis, Mr Chairman, that this legislation is as unsatisfactory to the Government Members as it is to us. Therefore, I am going to proceed on the basis that in casting our votes we are not actually signalling our satisfaction or our dissatisfaction with the legislation because I am confident that if that was so we might all of us be voting against it. For that reason we propose to change our votes to a vote in favour in order to make it clear that in any of us in this House supporting this legislation, we are not adopting different views as to the acceptability of the legislation itself. In other words, I do not think it fair, knowing that the Government Members oppose the legislation, to allow them to vote in favour pursuant to the undertaking that they may already have given and then take the parliamentary benefit that might arise from us either abstaining or voting against. I think in voting in favour we do so under protest and simply in order to be able to avail ourselves of the overall package.

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

Clause 3

MR CHAIRMAN

I do not think the Financial and Development Secretary need read it because you have already circulated it. The Opposition has got copies of the amendment and is not being disputed so I think if you just say you are amending as proposed in your letter.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am amending as proposed in my letter.

Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again as amended.

Clauses 4 to 6 as amended, were agreed to and stood part of the Bill.

Clause 7 was agreed to and stood part of the Bill.

Clauses 8 to 10 as amended, were agreed to and stood part of the Bill.

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

HON ATTORNEY GENERAL:

Sir, I have the honour to report that the Appropriation (1994/95) Bill, 1994, and the Financial Services Commission (Amendment) Bill 1994, have been considered in Committee and agreed to in the case of the Appropriation Bill without amendment and in the case of the Financial Services Commission (Amendment) Bill with amendment and I now move that they be read a third time and passed.

Question put. Agreed to.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to the 28 June 1994 at 10.30 am.

Question put. Agreed to.

The adjournment of the House as taken at 1.40 pm on 18 May 1994.

TUESDAY 28TH JUNE 1994

The House resumed at 10.45 am.

PRESENT:

Mr Speaker.....(in the Chair)
(The Hon Col 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 L H Francis
The Hon M Ramagge

The Hon P Cumming

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

PAPERS TO BE 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 Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 17 to 20 of 1993/94).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

HON M FEETHAM:

Sir, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the First and Second Readings of various Bills.

Question put. Agreed to.

HON M FEETHAM:

I have the honour to move that a Bill for an Ordinance to amend the Dock Work Regulation Ordinance be read a first time.

Question put. Agreed to.

THE DOCK WORK REGULATIONS (AMENDMENT) ORDINANCE 1994

HON M FEETHAM:

I have the honour to move that the Bill be read a second time. I have the honour to present the Second Reading of the Bill for an Ordinance to amend the Dock Work Regulations Ordinance. Over a period of time representatives of employers and employees have made representations to Government of the need to take some steps so that it will permit the port to function more efficiently and that if the places in which ships are loaded and unloaded are transferred from one location in the area of the port to another because of the changes in the division of control and responsibility between the Government and the Ministry of Defence, the Dock Work Regulations scheme should operate wherever that activity is taking place. The Bill is therefore a means of providing housekeeping but at the same time liberalising some aspects of the port and the amendment which I will be placing before the House subsequently is as a result of representations which have been made since the Bill was published, by people in the industry. In order to achieve these objectives various definitions have been changed and the House should not be misled by any reference to warships. We are here simply ensuring that where quaysides which the Ministry of Defence have the principle access to are used for commercial purposes, the provisions of the Dock Work Regulation Ordinance still applies. But where the Ministry of Defence is itself using the quayside for its own activities, we do not require the Gibraltarians load and unload the armament of the United Kingdom or for that matter of any other nation. I will be moving an amendment to ensure, however, that where a warship is being loaded or unloaded other than by Servicemen or MOD's direct labour, the Dock Work Regulations arrangements will apply. The Dock Work Regulations Ordinance dates from an era when refrigeration was the exception rather than the norm and where because of the Spanish blockade all of Gibraltar's fresh produce arrived by sea; for that purpose fresh fruit, fresh vegetables and fresh fish were excluded from the provisions of the Ordinance. It is now appropriate to include those where they are the cargo of a ship being loaded or unloaded. The real import of this amending Bill is to recognise that the system of registration and

licensing must be seen to be independent of commercial interests. There must be such a scheme to ensure safety and professional good conduct as well as security of supply. The port is one of Gibraltar's greatest assets and hopefully one from which we can obtain future commercial benefits. We must therefore ensure not only that there is freedom to compete in the conduct of work in the port but also that every person carrying on such business does so to the highest professional and safety standards. The economic situation in Gibraltar at the moment is such that we all recognise the need to ensure that there is no unfair competition. As we are all well aware the Government have successfully introduced a number of provisions designed to support this principle and in the amendments contained in this Bill the House will find reference to the need for an applicant for registration or licensing under the terms of the Dock Work Ordinance to satisfy the licensing authority that he is in compliance with the law generally as it is relevant to its commercial activities regulated by the Ordinance. Recognising that dealing with an appeal against refusal to grant a licence or the granting of a licence despite objections is not directly comparable with determining whether or not a..... [Interruption] has been submitted, the Bill makes provisions for in effect an arbitration on such an appeal rather than use the Magistrates' Court and the Stipendiary Magistrate. A number of amendments are made to reflect amendments which have taken place elsewhere in Gibraltar laws since the Dock Work Regulation Ordinance was last amended and in particular deals with the substitutional reference to the standard scale of fines in place of pecuniary amounts and, in line with Government policy generally, substituting a reference to the Government for a reference to the Governor where we are dealing with a defined domestic matter. I regret, Mr Speaker, that an error in printing has resulted in the omission of the word "dock" after the word "ships" in the explanatory memorandum. If the House would like to reinsert this word the explanatory memorandum will make better sense and is a summary of what I have now said to the House. At Committee Stage, as I have already said, I will be moving a number of amendments some of which have been as a result of representations and I am giving notice of this.

I have the honour, Mr Speaker, to 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 CARUANA:

Mr Speaker, as the Minister for Trade and Industry has intimated, the dock has generally and historically been operated as something of a closed shop where those that were already in, even as operators, or those who worked in it as dock workers, stevedores, in effect were able to keep out all form of competition. From the Opposition we support the principle of opening up the port to more open competitive practices. We do not support the continued operation if it is no longer necessary in defence of Gibraltar's wider interests. We do not support the continued operation unnecessarily of a closed shop regime in the port but we are hesitant to replace a system which the Minister has referred to as independent of commercial interests by one that is not free of excessive political control because, although the Minister for Trade and Industry has briefly alluded to the introduction of independence into the process of registration, he has not quite alluded to the extent to which the system has changed. Whereas at present the Dock Labour Board consists of a chairman and four representatives of employers and four representatives of dock workers, and that commission so constituted decides on who gets registered and who gets de-registered, the system introduced by this Bill is that the employers' interests continues to be represented in the form of two, the workers' interests continue to be represented in the shape of two, and then there are three independents. But the process of registration and de-registration which was previously vested in the commission as a whole is now moved into a sub-committee of the commission which consists exclusively of the three independent members so that the employers' representatives and the employees' representatives are now completely excluded from the process. They go from total control to total exclusion from the process of selection, of registration and de-registration of port employers and port workers. Although we welcome the recognition in the Bill that the port is a defined domestic matter and that is reflected in the fact that many of the powers that were previously vested by the Governor will be vested by the Minister with responsibility for the port. In our judgement this Bill gives the Minister with responsibility for the port at this moment in time the Minister for Trade and Industry, excessive political control over what happens and what does not happen in the port. He will nominate the three independent members and presumably he will also nominate the employers' representatives and the employees' representatives. He may not do it in practice but the Bill, as indeed the previous Ordinance does not, does not specify that the employers' representatives are to be nominated by the employers and that the employees' representatives are to be nominated by the employees. It

simply says that the Minister shall appoint representatives of employers and representatives of employees but in effect he will choose not just the independents but he will choose also the four representatives. If that were not enough power for the Minister, he eliminates the right to appeal by any aggrieved worker or by any aggrieved port employer. He eliminates the right to appeal to the courts. As the Ordinance presently stands the right to appeal by any aggrieved person is vested in the Magistrates' Court. That is swept away in favour of the right of appeal to somebody nominated by the Minister. He appoints the members of the Board, he appoints the three members with exclusive responsibility for registration and de-registration and he appoints the person to whom they can appeal if they are aggrieved by the decision of the first tier of individuals. This is simply usurping the total administration of this Ordinance into the political regime to the extent of even eliminating the right of appeal to the courts of the land. At the very least in order to enjoy the support from the Opposition, having said that initially that the broad principles of the Bill are agreeable, at the very least the last appeal has to be to the courts of Gibraltar as it was before to the Magistrates' Court. I can see no reason why, firstly, the appeal to the court should be eliminated and secondly why it should be eliminated in favour of an unspecified body. If at least this Bill said the right of appeal to the Magistrates' Court is changed by a right of appeal to this tribunal, we could judge whether that tribunal was good or bad, but it is not. The Bill says the right of appeal is to somebody that the Minister for Trade and Industry will nominate in due course, presumably he could nominate different persons to hear different appeals in different cases. Its outright political control of what is a quasi-judicial process and that defect in the Bill at least would have to be corrected. At least, if the Government insist on removing the right of appeal to the courts, at least they must specify in this Bill who the appeal is going to be to and not just leave it to something that the Minister will specify in a court on his own wishes in due course.

Mr Speaker, just to expand on a point that I have already made, although this defect exists in the present Ordinance and therefore it is not a defect of the Bill, it simply repeats the same mechanism. The Bill does not make it clear even that the employers' representatives and that the employees' representatives are nominated by them. It simply says that there shall be appointed two representatives of employers and that there shall be appointed two representatives of employees. But who selects those representatives of employee interests and employer interests? The Bill simply remains silent on

the point. Given that all these appointments were previously made by the Governor, presumably all these appointments will now be made by the Minister with responsibility for the port, at present the Minister for Trade and Industry. Therefore, although we support the principle of de-regulating and opening up the port to more competitive practices we cannot, as the Bill presently stands, support it on principles and therefore, we will abstain at this stage on the Second Reading to see if any of my comments find favour with the Government.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, I really do not follow the line of reasoning on the part of the hon Member because the scenario he painted of the port some of which I go along with, is that there has been a monopolistic situation there even though as the Dock Labour Ordinance existed even before this Bill was concerned, there was always the possibility of somebody going into the port. But the realities, the make up of the scenario and parties involved by joint benefit virtually kept everybody else out. That is the reality of the situation. What we are trying to do is to ensure that if somebody applies to be a port operator, to go into stevedoring and discharging cargoes from ships etc, that he should be permitted to become an operator providing that he meets the criteria which we are laying down as to safety standards, investment and so on. In the past that was a free-for-all situation and there have been constant complaints on one side that we must protect jobs which is the message of the Union and on the other complaints as well that the safety standards in the port were undesirable. What we are saying is we do not accept monopolistic situations in the port. Anybody that wants to come in to the port will do so on the basis of a like for like in terms of criteria and standards. However, when we then get into the area who is going to decide whether people are meeting the criteria and the requirements according to law, in the past it has been decided by the Dock Labour Board where we have had representations of the Unions, representations of the employers, and independents and invariably when we talk about casting votes I could say from experience that understandings create a situation where it makes it very difficult for somebody to get in. What we are saying is that the commercial handling of applications should be done by people who have not got a vested interests in the activities of the port and we are putting that in the

hands of independent people, whose integrity and judgement I am not here in any way, like the hon Member has done, to blemish. These are people that will be appointed by me or anybody else who I may wish to delegate that power to, the Captain of the Port, for example. The last thing that I want is to be involved in the day-to-day handling of the port activities with all the problems that I meet and all the hassle that that means. That is not the objective. The objective is if somebody wants to apply to be a stevedoring company tomorrow in Gibraltar and meets the criteria he ought to get a licence and that should be decided by independent people. Not by the employers, in the port, who have already got stevedoring operations, who will do anything to stop people coming into the port. That is what I am trying to do here, as simple as that. In my judgement, this is a step forward far better than what we have ever had before. It is an improvement. Let us see how this works and if the Opposition Member provides evidence to the House that the appointed persons who I have not even addressed who they are going to be, are doing things which are incorrect, perhaps he can even report it to the Governor. Give him some work to do. As far as I am concerned, this is a step forward in the right direction and an improvement to what exists at the moment. In so far as the arguments that have been put forward in terms of the replacing the magistrate by somebody appointed by me, we have made that step forward after consultation with the Chief Justice and the magistrates themselves. We have taken the step of replacing that with a person appointed by me, after asking the Chief Justice and the magistrate whether they thought that that was fine in light of the activities and resources and everything else and the functions and why it is necessary. We discussed that with the Chief Justice I am informed, because I am not present in those meetings, that he finds it satisfactory. I am telling the House what I have been told, that the Chief Justice has been consulted. It is something not strictly new, we appoint people to look at things in other areas of legislation, what is the difference with this? Is it that the hon Member does not think that my appointing somebody is conducive to good public order or arrangement. Is that what he is saying? That is what I think he is saying, in between words.

HON P R CARUANA:

If he asks the question I suppose he will have the courtesy to give way to allow me to consider them. I have already told the Minister. It therefore seems extraordinary to me that he should consider that he needs to ask that question. The power for him to appoint members of the board is fine so long as it is also coupled with a certain appeals procedure. In other

words, that he should not control both the original decision making process and the appeal process. That is what I object to. Of course, he has not addressed that. He has not yet explained why he thinks that the Stipendiary Magistrate is an obstacle to the elimination of the commercial monopoly in the port. That is what I have said. All this spill about competition, I opened by saying that I supported him on that. Why cannot this bill explain in the law of Gibraltar to whom aggrieved people will have the right of appeal? Why has the Minister thought it necessary to eliminate the appeal to the courts and to replace it with nothing except what otherwise right of appeal he decides in due course to establish.

HON M FEETHAM:

Mr Speaker, as far as I am concerned, we have taken what we consider to be necessary to have a more efficient, more sensible approach to matters concerning the activities in the port, to expedite matters in relation to appeals procedure and getting results in terms of the appeal themselves, rather than to have them waiting around. [Interruption] I am trying to give some explanation as to the background thinking. It is no good just picking on an item. I think we have gone a long way in addressing quite a lot of the matters in relation to the port. If somebody makes a commercial decision to go in a particular direction and then, if for one reason or another is blocked on that arrangement and he has got investment in place and needs to make sure he gets the final decision before he can actually say, maybe to the bank, or maybe to whoever, "I have to give this up", that situation is arrived in a reasonable length of time and that it is not something that can wait six, nine or 12 months before an appeal can be heard by the magistrate because of other matters. We have been trying, for quite some time, to find the means of establishing a small court procedure that would take away a lot of the problems concerning at the moment the Magistrates' Court in order so that grievances by the general public can be dealt with expeditiously. This is one matter that falls into that frame administratively. It falls into that framework of thinking, whether we are right or wrong is a matter of judgement.

Mr Speaker, that is the thrust of the Bill. That is the spirit of what we are trying to do in this Bill and it seems to me that the Opposition Member is actually in agreement with what we are trying to do in terms of liberalising. He may not be in agreement that independent members should be appointed by the Minister. But the difference at the moment is that before he was appointed by the Governor, now he is being appointed by

the Minister. Independent members have always been appointed. I do not think anybody has ever made any indirect indications that independent members are not going to be independent before. A lot of people give up an awful lot of their time in trying to do things on a voluntary basis. The last thing we want to do is to stop them from volunteering and accepting responsibilities.

Question put. The following members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon P Cumming
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 L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bill was read a second time.

HON M A FEETHAM:

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

Question put. Agreed to.

THE CRIMINAL PROCEDURES (AMENDMENT) ORDINANCE 1994

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Procedure Ordinance be read a First Time.

Question put. Agreed to.

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a Second Time. This is a Bill which I hope will be

welcomed by everyone as an aid to the administration of justice in Gibraltar. There are three main provisions and two of them certainly echo and follow the provisions as they exist at the moment in the United Kingdom. Matters started to come to a head prior to 1977 in the United Kingdom when it was found more and more that trials had a number of defendants and in the UK at that stage the number of peremptory challenges, or challenges without cause, was seven. In Gibraltar it is still eight. The situation became, in the United Kingdom, that if someone had, for example, two defendants they would have 14 challenges without cause. If someone had six defendants they would have 42 challenges without cause. In Gibraltar if someone had six they would have 48 challenges without cause. The Crown at all times only had in England seven challenges without cause, in Gibraltar eight challenges without cause. That, we say, is manifestly unfair because it is obvious that defendants together with legal advisers to defendants can remove without any explanation persons whose faces metaphorically they perhaps do not think fit. In 1977 in the UK, the Criminal Law Act was passed and the number of peremptory challenges was then reduced from seven to three and that was accompanied by howls of anguish mostly from the defence practitioners. I think probably in fact at that stage I was one of those in full cry and I can explain why in a moment. After the howls of anguish subsided as they always do, we got on with it and we then had for a number of years, from 1977 until the 5th of January 1980, three peremptory challenges. But even that did not work and probably it was because of the advent of a large of number of obscene publication trials in England where inevitably one would prosecute the author, if one could call him that, one would prosecute the printer, one would prosecute the distributor, one would prosecute the wholesaler, one would prosecute the retailer, one would prosecute the boys who worked in the shop and one could end up with ten defendants. If one had ten defendants, even when it was reduced to three peremptory challenges, and the Crown had only three, the defendants could still remove 30 persons who they suspected would never ever give a proper verdict according to the evidence and one could stop them coming in. If someone wanted to avoid being a juror in an obscene publications trial, Mr Speaker, he carried The Telegraph under his arm and he was off. If someone carried something slightly more exotic he would be there for the duration of the trial to enjoy, if one likes that sort of thing, all that he had to see and judge for the duration. We say, in fact, that if we abolish peremptory challenges there will be no hardship to the defence, there will be no injustice to the defence because the defence can always challenge for cause, as indeed can the

Crown. That is what we are hoping to do by that first provision to abolish peremptory challenges.

The second provision is not novel but it makes sense, we submit, in Gibraltar in particular, and that is to have the number of jurors who can be sworn from nine up to a maximum of 12 but only in a trial where the Chief Justice or the Additional Judge thinks the trial may last for more than four weeks, 20 working days. The reason for that is if we have only nine jurors, somebody might go sick, somebody might find half way through a four-week trial that a defendant recognises a witness who he would not expect to be there or vice versa. A juror may spot a witness who he is related to or knows or has some other problems with and I suspect and submit that in our jurisdiction it is much more likely that that could happen than in a large urban area perhaps in the United Kingdom. It basically will be an aid to the administration of justice. It will assist the judge. It will assist defendants. It will assist defence lawyers and, of course, the Crown and we say it makes sense as a practical step towards the administration of justice and it makes fine economic sense because I now know that court time and I suppose everybody knows this, is terribly expensive. In the UK, which is not us, but there maybe some parallel, it is now £25 a minute and that makes possibly lawyers unattractive to some people. It works out at £7,000 per court room per day and there are 102 courtrooms in London going full blast every day. They have got a problem and we would like not to have trials aborted after one week, two weeks, three weeks or even one or two or three days because it is expensive to start again and it makes sense. The jurors will play no part that they will have the obligations of the juror, they will sit and listen, and they can be called upon if somebody falls by the wayside by reason of illness or for some other reason. At the moment when someone was dealt with to finality and the jury retired to consider their verdict, the stand-by jurors would then cease their work and would go away. It is possibly thought to be slightly inconvenient to up to three additional persons but it is very much cheaper and much more convenient in the long run if, possibly, two or three additional jurors were incomed rather than starting a long trial de novo with all the additional cost.

The third provision, Mr Speaker, which again echoes the United Kingdom rules is that a person in England and we hope that this will prevail in Gibraltar, will take the oath when they go to the jury box to be sworn. That will obviate what has happened in the past having nine persons selected and then when they start to be sworn someone discovers that he has a problem and that problem can then be embraced by number four juror or number five juror and

that can ruin the whole procedure and we again have to start with another two or three or four days selection process. Mr Speaker, we hope that by doing this and by having jurors sworn when they go to the jury box it will obviate what happened in a case that I was in once in Birmingham, well known to the Chief Minister and me, where we were in a trade directory fraud. There were about 10 defendants and about 12 o'clock on the first day we actually had 12 jurors. We had a fairly indulgent judge from Leicester and instead of swearing them at the time he said to them "Look, I am told by everyone the trial may take about three months. Go away, come back at 2 o'clock to be sworn but in the meantime find out if you have got holidays booked, if you have got parents who might be ill, if you have got any problems whatever". At 2 o'clock, Thomsons had been rushed off their feet and everybody had booked a holiday. There were 24 mothers and fathers on death's door. The ladies on the jury had managed to get themselves pregnant between 12 and 2 o'clock and we do not want that sort of thing to happen here. I do not think half the ladies had actually got home before they came back at 2 o'clock. We want jury trials to continue with the advantages which we hope these changes will have. 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, in general terms the Opposition supports the policy and the terms of this Bill and in fact it welcomes this Bill. Only recently the Opposition was calling for exactly this measure for the doing away with of the peremptory challenge in criminal proceedings in Gibraltar. One comment I would make at the beginning of my contribution is that the Opposition does lament that the Government did not see fit to consult with the Bar Council, with the Judiciary before implementing this measure. As I understand it, the Bar Council has had absolutely no notification of this Bill. It would have been welcomed that at least the profession in Gibraltar might have been approached for any constructive comments they might have wished to make to the legislation. It has been pointed out to me and it is absolutely correct that it is possible that the judiciary was consulted but certainly the profession in Gibraltar was not consulted and, I think that is a matter for concern and regret. Nevertheless, the Opposition welcomes these measures which the Opposition see as making generally the working of the jury system in Gibraltar both fairer and more

workable. The fact is that the size of the community in which we live and the fact that a community of this small size should have to organise and administer its own system for the administration of justice, has clearly put the jury system modelled as it is on the UK system, which does not have to cater for the difficulties imposed by the small size of the community, under a great deal of strain. Recent cases in Gibraltar have shown this. We have seen enormous difficulties experienced by the Supreme Court in trying to empanel a jury for an important criminal trial. The Opposition support and, as I have said, has in the past called for the removal of the peremptory challenge. It has been seen in the past how, especially as the Attorney-General has pointed out, in cases where there are several defendants the peremptory challenge can be abused to mould the jury into one which the defence thinks will benefit it. This is not helping justice in any way and this is not how the jury system was designed to work. It has been seen in England again as the Attorney-General has pointed out how the challenge for cause provides more than an adequate safeguard for the defendants and the accused against any reasonable objection to a juror or any fear the accused might have of bias on the part of any juror. There is a growing body of case law in England which aptly demonstrates that the courts are resolved to protect the accused's right of challenge for cause. Most importantly it has been demonstrated that as far as the court is concerned, the accused only has to demonstrate that he feels there is a cause to challenge on a balance of probabilities and not beyond all reasonable doubt. In other words, the accused only has to convince the judge that on the balance of probabilities one of the proposed jurors is not proper, that there is cause for him to be excluded and the judge will accept that. The judge obviously well knows that if he treats the accused at all unfairly there are already grounds for appeal against the decision. Obviously, challenges for cause more than adequately protect the interests of the accused and the new system will prevent any abuse of the jury system; the sort of abuse that we have seen in a number of criminal trials in Gibraltar. The new system also makes provision for additional jurors. It provides a welcome protection against the collapse of criminal trials for lack of jurors in the event of sickness or unavailability. One point I would make, though, is that we see now that we are going to have nine jurors and three additional jurors. This really begs the question, why Gibraltar juries should not be constituted to a number of 12 the same way that English juries are? It seems to me that rather than have three additional jurors twiddling their thumbs and perhaps not paying as much attention as they should since they believe that they are on a substitute's bench, as it were, why not involve them from the very

beginning and protect the system, as it were. No doubt the Attorney-General will say the trouble with that is that if we have more than two jurors sick we start running into difficulties. There is no reason why the Criminal Procedure Ordinance should not provide that in fact seven or eight jurors is a sufficient quorum. So in other words, we have a leeway of five jurors from 12 down to seven or eight by falling sick or being unavailable. It seems to me that if we are going to have three additional jurors sitting on the substitutes bench we might as well involve them in the trial from the very beginning and I do not see why that point has not been taken and the number of jurors increased to 12 with a proviso, obviously that in the event of sickness or unavailability, the number can come right down to eight if necessary. That will provide exactly the same safeguard as we have at present but it would mean that the additional jurors would play a part throughout the trial and not be left twiddling their thumbs and possibly not paying attention as they should.

Finally, as to the provisions for swearing in immediately after they are chosen as jurors, again this is to be welcomed. We have seen also in criminal trials in Gibraltar how defence counsel tend to wait until nine jurors have been empanelled and then they look at the composition, they look at the balance, and it is at that stage, once there are nine jurors in the jury box that they start weeding people out. Clearly in an attempt again to mould the jury into one which the defence thinks is going to favour them; an unnecessary safeguard. It is clear once the juror has been identified as a potential juror there is no challenge for cause. He should be sworn immediately before the next juror comes into the court room and that way there is no opportunity for the defence, as we have seen, to weed out and try and mould them and bend the jury into one which they think is going to favour them. For all those reasons all in all the Opposition welcome these amendments to the Criminal Procedure Ordinance.

However, I have to bring two matters to the attention of the House which the Opposition feel should be taken and borne in mind at this time because they are considering the efficacy of the jury system as a whole. The first is a fairly technical point and that is this, since defendants are losing the right to peremptory challenges clearly it is very important that they be provided with a copy of the pool of potential jurors well before the case in order that the accused might instruct his counsel to say "Look, there are several names appearing on this list that I am not happy about. I have had a quarrel with him. He is my business competitor, etc, I know him well" for whatever reason, so the counsel is well prepared

before the hearing takes places with his client's instructions to be able to mount a challenge for cause. The prosecution already have the facility. I understand that jury lists are made available to the defence before the hearing but only shortly before the hearing and it is the Opposition's fear that this might put the defence at a disadvantage. We must not have a situation where the accused simply is not able to instruct his counsel quickly enough to mount a satisfactory challenge for cause and that is why I would ask the Attorney-General to take care and to ensure that a system is implemented whereby the accused's counsel is given a list of the pool of jurors well before the hearing in order that he might take instructions from his client and as it were be able to prepare any challenges for cause that he might wish to make. That is the first minor point.

The second more important point from the Opposition's point of view is that although this amendment to the Criminal Procedure Ordinance improves the product; the product is still far from perfect for one overriding reason. The essence of the jury system is that an accused must be tried by a jury of his peers. In other words, the jury must reflect and comprise an accurate cross-section of the society which is trying the accused. It is the view of the Opposition that it is an unwholesome anachronism that women do not automatically qualify for service on juries in Gibraltar. I have researched this point to some extent which is why I made the comment earlier which might have been misunderstood in the gallery that we have no ladies in the jury. It is not that we do not have any ladies in Gibraltar, it is that we have no ladies on the juries in Gibraltar. I cannot remember when last in Gibraltar a woman served on a jury in a criminal trial. I have researched this point. It is a matter which the Opposition have taken up in the past and I believe that Gibraltar is the only jurisdiction with jury trials that do not cater for the attendance of women as members of the jury. It is unwholesome; it is unrepresentative and it undermines the very concept of jury trials in the view of the Opposition for several reasons, three principal ones. The first is that the exclusion of women from juries fails to recognise the legitimate right that women have to an equal say in the running of every aspect of this society and I am surprised that I should have to be saying this to a supposedly progressive and socialist administration. I cannot believe that the Government Members really believe that women are not proper persons to serve on juries. We have mentioned this in the past and we have had petty remarks in reply that women - well who is going to cook the lunch for the men who are serving on the jury? A comment which I find both offensive and patronising. It is high time that women served their

part as every other member of society as responsible members of this society and served on juries in Gibraltar. That is the first one, it is the general social point but it is patronising against women not to allow them to serve on juries as a matter of right. Secondly, it deprives the jury system of the level-headedness and sensibility of women on juries. I have practised in criminal law in England and often have seen how juries work in England. The fact is that women tend to be not only sensible but actually fearless in the conduct of their duties in the jury system. We had cases where there have been allegations and suspicion of jury nobbling in Gibraltar and I venture to suggest in this House that if anybody tried to intimidate a Gibraltarian woman on a jury he would get pretty short tripped and I really feel that women have had a great deal to offer serving on juries in Gibraltar. They are sensible, level-headed and in my own experience as, if not more, fearless than men in the conduct of their duties. Finally, the third point and third reason why we believe that the exclusion of women from juries undermines the system is the fact that it is only a matter of time. I address these comments to the Attorney-General, and I am sure he is cognizant of this. It is only a matter of time before the absence of women from Gibraltar juries gets this jurisdiction into difficulties and he has spoken about the fear of the expense of losing criminal trials. The fact is that it is only a matter of time before the Court of Appeal expresses a view as to the exclusion of women from Gibraltar juries. We already have seen cases involving rape and serious sexual assault where it is inequitable to the complainant that there should be no women on the jury. It is simply not right. It is not representative of society that we have a person accused of rape, tried by only men. That is the first point but of course that, to some extent, favours the accused. What is going to happen, and it is only a matter of time before it does happen, when we have somebody in the dock, a woman, accused of a serious assault. A battered wife for example, pleading self-defence. We have seen cases for example in England recently of women pleading temporary insanity in certain circumstances. How can a jury in Gibraltar adequately try that when it is not representative of society when there are no women serving on that jury? It is the view of the Opposition that it is only a matter of time before the Court of Appeal overturns a decision and then we are going to have the Attorney-General complaining that we have lost the expense in another criminal trial and we are going to have a re-trial. But more importantly it is not the possible influence of the Court of Appeal but the possible influence of the European Court of Human Justice that one must fear in the circumstances. We have seen that this House had to amend the Criminal Offences

Ordinance recently to make sure that homosexuality laws were up to date for fear of the intervention of the European Court of Human Justice. I fear that it is only a matter of time before one of these cases happen and a woman in Gibraltar quite legitimately says "I am not being tried by my peers. I have not had a fair crack of the whip here. I am not getting tried by a representative cross section of this society" and she will be absolutely right in saying it. For these and several reasons that I can expound at some length before this House, the Opposition do feel that the jury system is still far from perfect in Gibraltar. I wish to make the point that the Opposition is aware of the fact that women can volunteer to serve on juries. The Chief Minister rolls his eyes. Let me make one point clear. Can the Chief Minister know when last a woman served in a Gibraltar jury? The answer is no one knows. [Interruption]

MR SPEAKER:

Order, Order.

HON F VASQUEZ:

The point is that women have a right to volunteer. They choose not to because no one is going to choose to incur a civil burden. But the point is not that and the Government Members may not be aware that defense counsel as soon as they see a woman on the jury, in the past, obviously now we have challenges, says "I do not want her, I do not want a responsible member of society who has volunteered to serve on a jury trying my client". The first thing they do is weed them out and how many times have we seen a woman who has gone to the trouble of volunteering for service, called into the courtroom and at the moment she walks into the room she is challenged and she is out again? We have not had a woman on a Gibraltarian jury for a very long time. The fact that they can volunteer does not mean that they are going to volunteer. The point is how many men would volunteer for jury service if they were given that opportunity? The fact is that a woman who is accused of a criminal offence, who is not tried by a jury representative of society, is hardly going to be satisfied by the explanation that if any woman had wanted to serve they could have volunteered to serve on this jury. That is nonsense and the Government Members must know it is nonsense. We have an anachronistic jury system. It does not work properly and the Opposition would wish to draw this to the Attorney-General's attention and to the Government's attention in the hope that it is something that they will pick up. The fact is that it will be in the Opposition's manifesto for the next election that

jury service will be made compulsory for women. Other than that and with those deficiencies in mind, the Opposition acknowledge that this Bill goes some way to improving the jury system and for that reason support the Bill.

HON P CUMMING:

I am also in favour of this Bill but I would just like to say a few words about the question of women on juries. I have never attended a jury myself but I assume that attending a jury is a distasteful procedure where one may open oneself to intimidation and personally it would be better if even men did not have to go. Certainly I think that women should be left free not to go as for example going to war. Women feminists may think that they have the right to go to war like men and if they believe that they should be allowed to go but in general to force them I would not agree. I would like to see our womenfolk protected if they want to be, if they do not then they can go. The hon Member here has talked about the rape case having men favouring the accused. I think it is an outrageous statement as though we had no wives and daughters and sisters and that men were not outraged by the crime of rape. Certainly all psychology seems to show that a woman defendant is likely to greatly prefer a jury of men, not of women, because my professional life has been where there have been a lot of women workers and a lot of women bosses and the women have preferred to work under men bosses, and to be judged and reprimanded by men rather than women, because women tend to judge it appears more harshly. So I would suspect that the opposite is true, in fact, in the psychology of the make-up of men and women. A woman could say she is not being tried by her peers. It seems very unlikely to me that this case would arise. If it did arise, there could be some way of persuading women volunteers to come forward to trials. I certainly do not agree that this law should be changed. It may be that in time. The Hon Mr Vasquez has called patronising remarks like, for example, who makes the dinner if the wife is all day at the..... and it would be patronising it to look at it from just that point of view, but our society of close-knit families where women play such a central role, is undoubtedly a very disrupting factor to take women out but less disruptive to our society to take the man out for a long period of time. It is certainly if all women demanded and wanted then, of course, they should have it, but I do not see any indication. All my women folk are very grateful to be allowed the privilege of not attending the jury, and I would like to keep it that way.

HON CHIEF MINISTER:

Mr Speaker, the Bill is not about making jury service compulsory for women or not making jury service compulsory for women, and therefore strictly speaking, the general principles of the Bill do not deal with that. The policy of the Government, it is a political decision, is well known to Opposition Members because they have been told that categorically and clearly in answer to questions. I can tell them that that was our view in opposition as it is our view in Government. It is nonsense for the Opposition Member who is a member of the legal profession, to spend three quarters of his time talking about women being prevented and deprived and excluded, only to have to be reminded by his colleague in his practice at the last minute that none of that is true because there is nothing to stop them serving if that is what they want, and it is clear that it is not what they want. What the vast majority of the people of Gibraltar, as far as we are concerned, we have got the right to influence political decisions making, say to us is not that they want us to force women to serve on juries. There is a minority view, and that minority view has been there all the time, but I do not know of any election since 1972 where a major issue in the election campaign has been forcing women to serve on juries. I remember having answered previously this question in the House by telling the Opposition that if the issue ever arose that it was discriminatory, then the discrimination would be removed, as far as we are concerned, by making voluntary the question of serving on juries for men, and then nobody could complain because there will be equal treatment because, as far as I am concerned, women are not getting inferior treatment, and therefore when we are looking to giving women equal rights, which is something that I think we all support in this House and generally in our society, giving people equal rights, it does not mean we have to give them equal burdens and here we are not talking about giving them a right which they are deprived of. It is not as if we said women in Gibraltar cannot vote, like for example, was a case in Switzerland a few years ago, but it is one thing to say women in Gibraltar cannot vote and another thing is to say it is a criminal offence not to vote. Therefore, if we have a lower participation of women than men in an election, which may well be the case, should we then say we have to force women to vote whether they like it or not to make sure that there is equality. This concept of equality does not mean that, because all that the hon member is saying is, "What should we say?" Should we say there has to be in order to remove discrimination, a token female, like in some countries that have a token black to show that there is no race discrimination? Do we have to say, since 55 per cent of the population is female, 55 per

cent of juries must be female, otherwise one is not being properly judged by ones peers. [HON F VASQUEZ: We will see what the European Court of Human Rights says.] If the European Court of Human Rights says that there is a discrimination against men, because they are being obliged to serve, then the policy of the Government would be to give men equal right with women, the right to say no. That is the policy; it is the policy which we have defended in Government. It is a policy which we have defended in opposition and, as far as we are concerned, it is a policy that has the support of the majority of the women who are not, in fact, lobbying the Government to be forced to serve on juries and who are not prevented today from serving on juries and if we saw that there was clearly a situation where lots of women were volunteering, then there would be an indication of how keen they are to be in. The hon Member recognises that they are not keen, but that they should be forced to do it because they feel they have to be there. All I can say is that those who applaud the sentiments of the hon Member, metaphorically speaking shall we say, should, in fact, put their name forward, because that would be the first sign that there is a desire to be on the jury. Although this is not the issue that we debating in the principles in this Ordinance, I have to say to the hon Member that it is not a matter for the Attorney General. It is a political decision for which we accept political responsibility and we have already stated previously in answer to questions in the House is the political judgement of the Government. Nothing that he has said is going to convince us. I do not know why for one moment he strayed away from the principles of the Bill in his effusive arguments. I almost thought we were talking about Amazonia instead of Gibraltar, about these women who are less afraid than men; who are less intimidated than men, I mean, that has nothing to do with it. What it has to do with is, is it right to have a predominantly male chamber like this one? Should we require 50 per cent of this chamber to be females to make sure..... [HON P R CARUANA: Some chambers do.] Yes, but if that is the policy of the Opposition Member then he should say they believe that 50 per cent of every institute in Gibraltar should be female, then he can stand for election on that ticket and put half the GSD candidates as female to prove that his money is where his mouth is. Then may be all the lawyers in Gibraltar should be female to make sure that women get proper representation from their own sex and do not have to depend to be defended by a male, and then half the judges should be female to make sure that when the judge has to pass sentence he is not influenced by his male chauvinism. Well, it may well be that that is the way to go about it, but it is not the policy of this Government to do it, and if and when they ever are in a position to make judgements on behalf of

the whole of the people of Gibraltar, then they can do all those radical changes and make us a totally free, equal sex society in every institution in Gibraltar. Until that time, we believe we are genuinely maintaining a system which is being modified because of our concern that it is not working properly. There are people who believe there should be no juries at all, male or female, and we are not entirely convinced of that, but certainly, I have said it before and I want to make it clear so that we know where we are, if, in fact, it is ever put to us that the system that we have in Gibraltar, which we consider to be fair to women and onerous to men, is one that is discriminatory, it is discriminatory because women are in a more advantageous position and then we will consider removing the requirements for men. If that happens, we may finish up with no juries because no men will volunteer either.

HON P R CARUANA:

Mr Speaker, it is clear to me at least from the Chief Minister's rhetoric that he misunderstands both the jury system and the issues involved in equality of rights for women, if he does not understand, as he appears not to understand, the difference between having to do something on the same basis as men and having to volunteer to do something on the same basis as men. He does not understand clearly the difference between being on the same boat and having to choose to put oneself in the same boat, and as he does not understand that, everything else that he says is clearly irrelevant to the issue that lie in the heart of discrimination. It might surprise him to learn that there are indeed enlightened democracies in the world that take precisely the view that he has tried to ridicule. In the United States of America, great care is taken to ensure that juries in major trials reflect the society. Not just in relation to the ethnic minority composition, but also to the composition of juries in terms of men and women. Great trouble is taken to ensure this, but, clearly they do all that because they have not had the benefit of exposure to the Chief Minister's wisdom on this subject, and all that radical civil rights and civil liberties development that goes on in America is mistaken and misconceived exactly that this is a burden and not a right. Well, all I can say is that the Chief Minister has his dogmatic views on this and he has his dogmatic views on so many other things, but he ought not to make the mistake of thinking that the fact that he is dogmatically unshiftable from a view, renders it necessarily correct. There are many people out there who do not fall into the same intellectual trap as he has fallen into of not distinguishing between a right and a privilege.

MR SPEAKER:

If no other member wishes to speak, I will call on the Attorney-General to reply.

ATTORNEY-GENERAL:

Mr Speaker, I do not really want to say very much in reply. I listened to what is being said, and we know the views of the Chief Minister and his party, and I wish to say nothing about the question of ladies going on the jury or not, save to say this. When I first came to Gibraltar, I think, in fact, it was on the opening of the legal year in 1992, I touched precisely on the point of ladies being on Gibraltar juries and the following day in the Chronicle there was a fairly large press coverage saying that the Gibraltar Women's Association very much welcomed my individual personal view and since that time, as I understand it, one lady only has volunteered. Now as the Chief Minister says, and I am bound to support him on this, if, in fact, they know their rights and they all do, and if there is a Gibraltar Women's Association, and there is, and if they have already supported, certainly in the last two years what I said on a personal basis about women being on juries and they decided to do nothing, the proof of the pudding is almost in the eating, but it appears that they do not want to go on juries. [Interruption] No, I have not missed the point of the argument, and it is indeed with the pudding that the Hon Mr Cumming's wife puts to him to go home and eat it and he does not want her to be on the jury. He is luckier on a personal basis, because my wife, as a New Zealander, cannot sit on a jury but I still do not get lunch. Just to answer very briefly the Hon Mr Vasquez, the Chief Justice in fact, was consulted about all these proposals. I take on board entirely about the jury list being supplied to defence counsel in good time, that is obviously correct. I only want to say this. I do not think it is quite fair, certainly not in my experience, to say publicly, without any evidence, and it is not a great criticism, but I think it should be said, to say in public and if they get reported that every defence practitioner in Gibraltar immediately a lady appears at the jury box exercises his peremptory challenge, because it has never happened. [HON F VASQUEZ: It has happened.] Well, I have not seen it. [Interruption]

MR SPEAKER

Order, order. If the Attorney General will give way then the Hon Mr Vasquez can speak.

HON ATTORNEY GENERAL

No, I do not want to do that. It did not appear to me to be that funny for the interjection. If he is saying that every

time a lady juror comes to the Supreme Court, there is a peremptory challenge, that is an incorrect statement. In the last two years, there has been a single lady there, not the defence counsel all over Gibraltar exercising peremptory challenges because of bias, that is quite wrong and misleading.

HON F VASQUEZ:

If the Attorney-General will give way. In my own experience, to get back to the subject of the pudding, the proof of the pudding is in the eating. In living memory, there has not been a woman serving on a Gibraltar jury, and there have been women that have volunteered and I have been in the Supreme Court when a woman has entered that room and she has been peremptorily challenged the minute her foot crossed the threshold of the court room. It has happened and it has happened on many occasions and there has never been a woman serving on a Gibraltar jury in living memory, which is evidence enough of the point I made.

HON ATTORNEY-GENERAL:

I conclude, Mr Speaker.

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 today.

Question put. Agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1994.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. There are a number of amendments, Mr Speaker and I shall deal with them very briefly in the sequence in which they appear in the amending Ordinance. The first amendment to section 6(1) of the main Ordinance is in fulfilment of the Government commitment to the women of Gibraltar. It will reverse the provision in the

current law whereby the payments made to a wife or child under formal maintenance arrangements are treated as taxable income of the recipient and it is, in fact, the father or husband who enjoys the tax relief. To give further effect to this change, regulations will shortly be made and those regulations which affect the wife or child will be backdated to 1st of July 1993 and those which remove the tax relief from the ex husband will be postponed for a year, that is, they will not come into effect until the 1st of July 1995, so there will be a period of adjustment for the payer of the maintenance. The second amendment, adding a new sub-section to section 6 of the main Ordinance, may, in some respects be described with the clarification of the existing tax law for the avoidance of doubt. Any income from a trust received by an individual who, by virtue of his residential status and in other respects, is liable to tax in Gibraltar on his world wide income, could be regarded as ipso facto as taxable already. However, this may not be apparent. It may not have been apparent to those God-fearing citizens who are liable to tax, and so this clarification is intended to relieve them of the agony of any ambiguity of this law when they complete their tax returns. The other related provisions in this series of amendments on trusts are in the main, copies of the relevant UK provisions, not abbreviated I might say, that is my understanding, and they relate to such matters as the treatment of assets owned by a trust in lieu of income. That is to say, a house which might regard as a benefit in kind, and there are also provisions governing loans in lieu of income subject to certain limits. The next amendment to section 41 of the principal Ordinance does not represent an increase in the rate of corporation tax applied to qualifying companies, so much as an increase in the flexibility with which this provision can be applied. Qualifying companies and tax exempt companies enjoy special privileges and we want to do all we can to encourage the growth of these important finance centre activities. The sealing of 18 per cent has been in existence for, I am not quite sure how many years, but it represented a figure just over half the UK rate of corporation tax and as Opposition Members, the two learned ones any way, will know, there was a change in the UK tax laws some 18 months ago in Norman Lamont's last budget. As the result of which we need to figure 18 per cent to one which would represent just over 75 per cent of the UK rate. However, there are other reasons why a qualifying company might want to pay the full amount of Gibraltar corporation tax, believe it or not, and the opportunity has been taken to increase the upper limit to the maximum amount which could conceivably be paid. The amendment to section 47 dealing with covenants, increases the existing maximum allowable, but also provides for the limit to be increased from time to

time by notice in the Gazette rather than by an amendment to the Ordinance to be referenced to this House. Before dealing with the changes to section 55 which actually comes next in sequence, I should explain that the changes to section 59 of the principal Ordinance, that is, in Clause 6 of this Bill, is again for clarification purposes only and does not represent any change in existing tax practice. Finally, I come to section 55 of the principal Ordinance and the related Companies Ordinance provisions and as briefly as I can, I will cover these. They represent the change in the arrangements governing the treatment of preferential debts on liquidation or receivership. At present rates, unpaid tax, unpaid social security and unpaid wages rank equally before other debts, but where there are insufficient funds what I will call a proportionality applies. These debts will remain preferential and equal in future if there are sufficient funds but if not, the ranking will be different, namely, unpaid wages first, unpaid tax second, a dead heat in third place between rates and social security payments. I must also mention that in the light of a recent decision by the Supreme Courts about the status of PAYE arrears not paid to Government, the wording of section 55 of the Income Tax Ordinance and section 241 of the Companies Ordinance have been changed to ensure that PAYE collected by the company is, in fact, treated as unpaid tax. Finally, as I wish to be brief, the amended section 55(1) places a responsibility on the receiver not to divest a company of any underlying value, that is dispose of assets, although, of course, he shall continue trading until the payment of tax which may be due and as provided for in the other related amendments, has been made. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON P R CARUANA:

Mr Speaker, I did not quite understand whether the Financial and Development Secretary meant that all the provisions after the alimony provisions of the Bill were albeit abbreviated copy of equivalent UK provisions. Because if that is what he said and meant, then I take issue with him. None of the other provisions of the Bill represent either the detail or the practice of the position in the United Kingdom. The Opposition have obviously a difficulty in deciding, on how to vote on the principles of this Bill, because, of course, as the Financial and Development Secretary has just described

in passing, it really is a composite Bill and changes various issues of various Ordinances and different consideration of principles rise in relation to different clauses of the Bill. Whereas we support some, we oppose others and therefore we are not able to support the Bill as a whole on its principles and we will therefore be abstaining on the Bill. But, of course, we support the Bill insofar as in Clause 2(a) is concerned, that is to say, the exclusion of maintenance and alimony payments to wives and children from the incidence of taxation. The Government will be aware that we and others in Gibraltar have been urging Government to take the steps for some time, and therefore we welcome it now that they have done it. We support in principle also Clause 2(b) which says that the income received by a beneficiary of a trust is taxable income. I am very grateful to hear the Financial and Development Secretary say that he thinks that that is just clarificatory, because tax is always payable because I would hate to think that I have been paying tax voluntarily for all of these years. I share his view, I think that that aspect of the Bill is clarificatory, I have never been in any doubt professionally that income paid by trustees of a trust to beneficiaries is, in effect, tax in the hand of the beneficiary as income of the beneficiary. That has always been the practice in Gibraltar and I have never thought that word was wrong, but still, if anyone forms the view that the position was ambiguous, then I think it is one of those areas that I think it is correct to clarify it. I cannot say, however, that we support the method chosen by the Government. I mean they will say that it is a matter of policy decision and, of course, they are entitled to legislate their policy views. This is the first aspect in which I say that this Bill does not copy United Kingdom practice. It is true that United Kingdom taxes benefits in kind, and it is true that the United Kingdom taxes income and benefits in kind received from trusts by beneficiaries of those trusts. It is not true, I am advised professionally from the UK, that the taxable benefit is 20 per cent per annum of the capital cost of the asset, because in the United Kingdom when taxing a benefit in kind, the principle is that they value the benefit and not the asset. In other words, when somebody has the use of a property for example, rent free, the value of that benefit for the purposes of tax is the rental value of that property, not 20 per cent of the capital cost of the property, so that in 5 years the whole cost of the property has been paid over in income tax. If a trust of which I unfortunately am not fortunate enough to be the beneficiary buys the Mona Lisa and lends it to me to hang on the wall of my living room so that I derive the benefit of the use of the asset, are the Government seriously suggesting that I should be taxed as income in my hands 20 per cent of the cost value

of the Mona Lisa. It is an unsound and unjust principle of taxation. I know of no safe investment that yields a 20 per cent return on capital. The only thing that I can think of that yields a 20 per cent return on capital is, by nature, speculative and I think that it is fair that benefits in kind should be taxed when they flow from trusts. All I quarrel with is with the mathematics of how the Bill chooses to tax. I think it is valuing the wrong thing. It is not valuing the use of the asset, it is valuing the asset, and that must be wrong. I will give way.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, I just wanted to make the point, I mean I hope the hon Member obviously takes issue with a general principle, but I must point out that the references to 20 per cent of the market value of the asset is when it was acquired. In the case of the Mona Lisa, I mean I do not know what it was sold for by Leonardo, but it would not necessarily be today's value.

HON P R CARUANA:

Mr Speaker, that hardly deals with the issues. What it means is that if one buys an asset of a value that falls in the market, one still pays income tax of 20 per cent of the value which the asset no longer has. It actually compounds the problem rather than answer it. I am advised that in the United Kingdom, quite understandably, tax is payable on the value of the use of the asset and not on the value of the asset itself. I do not know to what extent this represents Government policy. If it represents Government policy then I admit it, but if it does not represent Government policy, I think it is spoiling a perfectly fair and sensible taxation provision by an inequitable incidence of taxation in terms of quantum. Bearing in mind, in particular, that many people that own assets, for example, an asset owned through a company, the company ultimately owned by the trust, is caught by this. Well many of those assets have been bought by the individual that uses them. I could buy myself a house in Queensway Quay through a company through a trust. I will have paid for it out of my taxed income. The mere fact that I put it in that structure renders me liable to pay tax at 20 per cent of its capital value per annum but if I put it in my name I would pay no tax. If I buy a house and put it in my name I pay no tax on the use of it, if I put it in the name of a company owned by a trust, even though I have bought it and paid for it, I have to pay tax. I think that insufficient thought has been given. I am delighted to see the Financial and Development Secretary shake his head, because at least it means that that is not the intention.

It may not be the intention, it is certainly the effect of the Bill as drafted. If it is not the intention, then I live in hope that it might still be corrected. There is just one small point and it may well be that there has been an amendment to the Income Tax Regulations or the Income Tax Ordinance that I have missed, but what is corporation tax in Gibraltar? I mean I know of corporation tax in England, because the Income Tax Acts provides for corporation tax. As far as I am aware, the Income Tax Ordinance of Gibraltar does not provide for corporation tax, there is no such animal as corporation tax. Companies pay income tax under the Income Tax Ordinance, and I note that in two places in this Bill there are references to "the rate of Corporation Tax" as if that existed as a concept. It may well be that it has been introduced and I have not seen it, but certainly it does not exist as a concept in the Income Tax Ordinance itself.

I shall move on to Clause 5 of the Bill which deals with the amendments to section 55. I think that it is important, and I do not say that those who draft the explanatory memorandums do it in order to mislead, but those that draft the explanatory memorandums must be aware that laymen unlike lawyers who read them will assume that they are accurate and will rely on the explanatory memorandum for a relatively accurate indication of what the Bill does and does not do. Explanatory memorandum (d) is singularly inaccurate and misleading. It does not clarify the obligations of the receiver or liquidator. It changes them in drastic and significant ways and I am certain that the Financial and Development Secretary knows the distinction between a clarification and a change, and I am sure that he will agree with me, if I can persuade him that there are significant changes, that it is misleading although I accept, not intentionally so, to readers of this Bill to be told that all it does is clarify the obligations and rights of procedures. Let me explain what I mean. Until now, Section 55 which is the section that we are concerned with, prohibits a liquidator from distributing the company's assets to shareholders unless provision has been made to pay outstanding tax. What section 55 presently says quite understandably and rightly in my opinion, is that the shareholders are certainly not going to get any money out of the liquidation until the Government has had all the money due to them in tax. Anything else will be monstrous. The amendment to Section 55 says not just the shareholders cannot get assets out of the company without the Government having been paid the tax, but creditors even secured creditors cannot get them out to pay that. Well, I am sure the Financial and Development Secretary will agree that that is not a clarification it is a radical and substantial

change. Not only is the liquidator's and receiver's freedom to pay out assets of the company on a liquidation, not only is it extended to payments to creditors which cannot be made either until taxes have been paid, but in addition, the Government are made a preferential creditor in respect of more taxes and for longer periods. So, for example, PAYE and other tax to be deducted by the company, and it could be other things such as payments to be deducted from overseas contractors, deductions to be made from..... there are three or four things that a company needs to deduct not just PAYE in respect of tax which now fall in the definition of tax for this purpose. Now, as a matter of policy, of course, it is a matter of opinion whether the Government should or should not have. When we talk about the Government we are talking about the taxpayer. As a matter of policy we could debate whether the taxpayer should or should not have the first bite of the cherry on a liquidation. In the United Kingdom what this Bill seeks to do was done in respect of PAYE and deductions from sub-contractors by the Insolvency Act of 1985, but with one very important difference that deprives the English law of the weakness to which this Bill is now subject. In England the liability to deduct PAYE as a preferential creditor is limited to one 12 months period. In Gibraltar, there is no limitation at all. So if a company goes bust owing 10 years of PAYE, the whole 10 years worth of PAYE becomes a preferential creditor. Then let us not say that this is an abbreviated repetition of the United Kingdom practice because it is not and it is not in a way which exposes the central weakness of this clause of the Bill to which I will now come. Not just PAYE and other deductions but all company taxes including income tax are now limited to one year. Before under the Income Tax Ordinance and the Companies Ordinance income tax was preferential, but only for a year. Now the year's limitation in respect of that is swept away as well. What is therefore the effect of this great difference that exists not just between this proposed legislation and what we had in Gibraltar before, but indeed this proposed legislation and the practice of the United Kingdom? The great difference is that there is now no time limitation. In other words, debts to Government in the form of the various forms of taxation are not limited to a 12 months period. It is all arrears no matter how old the arrears are. That means that there is no cap on preferential debts. I say to the Government wearing more a professional hat than a political hat, I really do fear that that will lead to a breakdown of the system of bank financing in Gibraltar for business. Because what that means is that when a bank lends on security which is still the primary source of oiling the wheels of commerce, a bank will say, "Hang on, how can I lend on the security of this building, how can I lend on

the security of that debenture when I do not know what that building is going to be worth to me if I have a need to rely on it, because I do not know who has preference over me?" The Government have preference for income tax, for PAYE, for any number of other things and for any period of time. How can a bank or a building society or other lending institution, lend not knowing what if anything at all their collateral is going to be worth or is a bank supposed to check with a company every week or every month or every six months and say, "Have you paid your PAYE this month, have you paid your income tax this year, because if you have not that detracts from the value of my collateral?" The fact of the matter is that this provision does not reflect the practice in the United Kingdom, which does not reflect the law in the United Kingdom, which departs from the practice and the law in the United Kingdom in the removal of the 12 months cap. In England the Government's preference of tax is limited to a one year and here it is arrears for however long they have existed. That difference is crucial to the workability of this legislation to ensure that banks are not put off financing private commerce which we have all agreed in this House is the engine upon which we have got to build the economy of this community for the future. And then it seems to me that even if the Government disagree philosophically with that Bill, even if they do not think that this provision will make it harder or less likely that banks would lend, it seems to me that there is one question of unfairness in this Bill, and that is that it is retrospective. How can one say to a bank that made a lending decision one, two or three years ago on the basis of what the law then was, on the basis of the priority that he had then, on the basis of the preference that his security had then, as of now that is no longer the case? Now I have priority for this and not just in respect of one year but stretching back to a period even before the time that it made the lending decision. I think that that retrospective aspect of this Bill operates grave unfairness. It surely cannot be the desire of the Government even if they disagree with me as a matter of policy with the wisdom of this amendment in the first place. It cannot be their intention to operate that degree of unfairness to banks that have already made lending decisions on the basis of what the law then was. I think there is one provision of this Bill which suggests to me that the people who have drafted it do not actually have a working knowledge or understanding of what a receiver's and a liquidator's function is because how can somebody say to a receiver and a liquidator whose job it is to realise assets in order to pay off debts, he shall not sell the asset of the company until he has made provision for the tax? Well, how on earth does anybody think that a liquidator can make provision for the tax or for anything else until he has sold the property? The

whole drafting of clauses 5(1) and 5(2) amending section 55 shows that the draftsman does not understand that we are paralysing the liquidator and the receiver. What is being said to the liquidator and the receiver is, "Look, you must make provisions for the tax and until you have made provisions for the tax, you cannot sell anything." Well unless the liquidator walks in in a rather unusual circumstance where he finds a drawer full of money or a bank account full of money, how on earth does anybody believe that the liquidator can make provision for the tax until he has sold? If the Government really want to legislate that, then at least they must amend subsections (1) and (2) to make it clear that once he has sold the assets, the receiver or the liquidator must not pay it out without attending to this. They cannot be stopped from selling the asset until they have made the provision. It is a nonsense. We believe certain aspects of this Bill at least the clauses other than the maintenance for alimony provisions require a little bit of more thought. I do not know to what extent, if any, the Government agree with any points that I have been making. They are not intended to be political points. If they do want to investigate the points that I have made I would urge them to not take the Committee Stage of this Bill on this occasion and to bring it back at the next sitting. I do not see any other provision of this Bill other than the maintenance one which is that time urgent, in the sense that most of these provisions can just as well wait a few more months or until the next sitting of the House or the next meeting of the House, and I would earnestly urge them to take that step in relation to this Bill.

HON P CUMMING:

Mr Speaker it seems to me that the Leader of the Opposition has made some very valid points and I would ask the Government to attend to them and to amend as necessary. The point about this 20 per cent tax and the Mona Lisa obviously was sheer common sense and it seems to me must be addressed by way of amendment. On the question of 'pay as you earn' being a preferential creditor, personally I would like that all the way without limits, because this is not money which businesses must feel free to use as a sub-loan, this money belongs to the worker that has earned it and now has to pay part of it to the Government and the business is simply a messenger taking that money to the Government and must not lay his hands on that money. Therefore I would say, yes 'pay as you earn' must be a preferential creditor all down the line. In the question of general taxations, how much the Government should be a preferential creditor, in the light of a small business that may go bankrupt if his debt is not paid, I think

that some attention should be paid to protecting the interests of those small businesses. On the question of bank loans and the value of collateral being brought into doubt, I think it may be a valuable asset to the collection of taxes if, in fact, banks, before making loans to businesses, did enquire into the state of their taxes owed and certainly their 'pay as you earn' owed. This might help prevent bad situations going worse. In general those points that the Leader of the Opposition brought up which relate to common sense, for example, the liquidator selling assets before paying taxes on these. The two common sense points of the Mona Lisa and the liquidator selling assets I would ask the Government to attend to by way of amendment so that we could all support the Bill.

HON CHIEF MINISTER:

Mr Speaker, I agree with the point made by the last contributor that we have to address the arguments that have been put by the Leader of the Opposition based on logic. We are not in the business of bringing legislation which then proves unworkable or indeed which seeks to arbitrarily attribute a 20 per cent value to an asset irrespective of the nature of the asset. In some cases 20 per cent might be too little. In other cases it might be too much. Nor is the 20 per cent something really that one can consider in isolation, because, of course, in a situation where borrowing costs are very high, 20 per cent might be a very good return and where borrowing costs are very low, 20 per cent might prove to be an unreasonable return to expect on the assets. I think those are valid points and we will certainly before the Bill is passed address that point when we come back this afternoon and do something about it at the Committee Stage. I also want to make clear that the primary reason for moving on the amendment to give priority to the ability to collect tax over other preferential creditors is, in fact, the problem of PAYE and is the fact that we have been recently faced with situations where we thought that it was almost self evident that the money did not belong to the company, that the money belonged to the Government, that the company had withheld that money from an employee and was holding it in trust. We even thought maybe we need to do something of that nature because that money does not belong to the shareholders and that money does not belong to their creditors, that money belongs either to the worker from whom it has been taken or to the public to which it has to be paid represented by the Government of the day. Therefore this business of suddenly finding that because people are not up to date and because quite often people enter into agreements to get up to date on the basis that it is better to give them time to catch up with their arrears of PAYE and then

they suddenly go under, and we find that the money disappears. Quite apart from anything else we have a situation where the person that has paid tax may have the right to claim a rebate because he may have worked say, for three or four months of the year, and then he is unemployed the rest of the year and the tax that he has paid the first three or four months is not as much as he would pay for the whole year given his income for the year. He cannot get the tax back because, in fact, the Commissioner of Income Tax has never got the tax to be able to give him the refund. So that is the primary purpose of that section, and therefore on that point I think I have to make it clear that the policy decision was taken that there should not be a 12-months time limit on recovery. Because, in fact, one of the differences between the United Kingdom and Gibraltar in terms of PAYE is that we do not have an accumulative system and although we are looking to see how the situation could be improved, is something that has not just been looked at by us it has been looked for as long as I have been in this House and there are problems on administration in having a system where the tax comes in regularly during the year in the way that it does in the United Kingdom. In Gibraltar, in fact, as hon Members will know from the comments from the Principal Auditor, it is only very recently that we started catching up with arrears of PAYE and although the money is supposed to come in on the 15th of every month, there are substantial numbers of employers that do not do it. It is an increasing problem in a situation where as the hon Member has mentioned, the economy of Gibraltar is relied more now on the private sector than on the public, because the public always paid on the due date because it was an in house situation as was the MOD where as now, is a question of the money that comes in in the system that we have got which is the one that has always been there, even the ones who pay, the tax office does not know until after the end of the year whether they paid everything they should have paid. So it is only in a week's time that the tax office will begin to discover what people ought to have paid in the last 12 months. If nothing has been paid at all in the last 12 months, they do not know whether that means that the employer had no employees until they send in a nil return. If something had been paid they do not know whether what has been paid has been all that should have been paid until they send in a PA listing the employees and listing the amounts. So, given that collection system, the reality of it is that it is only until about August that the tax office is able to make an assessment as to which employers are up to date with their PAYE bills, and this is going back to June, July 1993. [Interruption] I will finish what I have to say and then I will give way. If a company then starts getting into trouble by the time they are given an opportunity to try

and recover, an opportunity to try and negotiate a way of paying, somebody decides to pull the plug and put in a receiver, they are then in a 24 month situation before we even know where we are. Now, we have got a number of situations like that where quite frequently it is a very high proportion, I have to say this, of people who are not permanent participants of long standing in our economy. Quite a disproportionate amount of these people are the ones who come in on short-term contracts and disappear and the time that it takes to catch up with them is longer than the time he has spent in Gibraltar. So by the time we actually start discovering that they are here because they have sent the return at the end of the tax year, and that has been assessed and somebody sent a bill to them and then they decide to put the company in liquidation, they are given notice to pay and they are gone. That takes account of a big proportion and much of that is in the construction industry which is where firms tend to come in, take a contract and when there is no more work they go. We feel that that in itself is, quite apart of the fact that it is unfair on the employees of that particular firm, it is also unfair on the competition, because the local guy that is here all the time, who cannot disappear, who is going to get caught, is in a situation where sometimes he may be undercut in the work because the competitor has no intention of paying anything. He intends to do a bunkum when the time comes. Now, I accept that the drafting of the section may give rise to problems which are unintended and therefore we will have to review that, but that is the primary purpose which was promised because this has been put in doubt. We have a problem and we say no, the first thing that has to be paid is the tax that belongs to the Government which is the tax that has been paid by the workforce because that is not something the liquidator is entitled to give to somebody else.

HON P R CARUANA:

If the Chief Minister will give way. Nothing that I have said is intended to make any different point to that. I think that the withholding of PAYE from the worker and the failure to forward it to the tax authorities is very serious, and I think, a misunderstood, in terms of analysis, offence. Certainly we would support the Government in any measure designed to address that wholly unacceptable practice that the Chief Minister has described. My concern is, first of all, that although the Chief Minister's address has been limited to PAYE, of course, I also pointed out that the cap has been removed in respect of what they call corporation tax, income tax as well. My concern is that in trying to catch the rotten apple, we do not unwittingly paralise the remainder of the economy. We have got to find a system

that does not dress one saint at the expense of undressing another one, to translate literally a Spanish saying. Because it would be dreadful if the result of this system were that we recover the PAYE from those companies that go bust leaving property, which may not be many, but the price that has to be paid for that is that banks, because this applies to the good ones as well as the bad ones, will say, "Well look if your building is worth £200,000 whereas before I might have lent you £100,000, now I will only lend you £50,000 because I have to leave a margin of £50,000, in case you fall into arrears with your PAYE or with your corporation tax." In other words, in inviting the Government to address that side effect, I am not in any sense disagreeing with their objectives which is to address the abuse of PAYE provisions.

HON CHIEF MINISTER:

I take the point the hon Member has made. We do not want to go down that route; we do not want to create a situation where businesses that conscientiously meet their obligations find themselves in greater difficulty in obtaining loans because there are some other people who are totally irresponsible, and therefore since that is not the intention, what I said is we will take into account the arguments that have been put by the other side to improve what we have brought to the House because I think that is, in fact, a proper role for the House to take. We have brought something here, we have explained what the objective is, the Opposition have pointed to us some dangers and maybe some potential shortcomings which we have not ourselves homed in on and therefore it is only right that we should go back and reconsider the provisions to make sure that we do not have unwanted side effects from the legislation and we will seek to do that at the Committee Stage.

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 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:

Sir, I beg to give notice that subject to what the Chief Minister has already said, the Committee Stage and Third Reading of the Bill will be taken today.

Question put.

HON P CUMMING:

Mr Speaker, can I have clarification? I do not want to be obstructive or to stop expediting matters of ones which are agreed, my concern is the need to be in this House till midnight debating motions which we have lost interest through inanition and exhaustion and if in some way it was possible to have kind of indication that we would finish by 8.30 pm by which time we have done a day's work, and if the Bill could be included in that time I would go along with it. Otherwise I would like to leave this over for tomorrow in the hope of leaving business for tomorrow and finishing at a reasonable time today.

HON CHIEF MINISTER:

Can I just clarify? If he wants to listen to me in the Mackintosh Hall he will have to leave early today.

HON P R CARUANA:

Mr Speaker, normally I do not simply to make a point withhold my consent, because it is childish to make everybody come tomorrow just to make a point. On the other hand, the Bill is not in form that I think can be legislated, and if I withhold my consent that might improve the amount of time and attention that the Government are able to give is to try and cure some of the defects. If I do not withhold my consent, the Chief Minister might, if we are all lucky, be able to spare 15 minutes of his time over lunch, which I do not think it

would be sufficient even allowing for his reputed powers of analysis. I would like an assurance from the Government that these points are going to be given proper consideration and they would need to consider legislative amendments and therefore perhaps this question can itself be held over until after lunch, when the Government have decided which, if any, of the points they wish to address. In other words the question that you Mr Speaker has now put to the House could be put after lunch.

HON CHIEF MINISTER:

The only reason why we are putting the question is because the rules provide that it has to be put. Obviously when we are asking for the Committee Stage to be taken later on today, it is on the assumption that we will be able to come up with the necessary amendments, if we are not able to come up with the necessary amendment, we will not take the Committee Stage or we will make provision not to bring in that particular section when the rest of the Bill is put in. I have said we will address it. I do not know how difficult it is going to be until we make the attempt, but, of course, if we do not take the decision now to take it today unless we do not vote now and wait until after lunch, then we will not be able to do anything about it. Once it is stopped it is stopped.

MR SPEAKER:

Well, I think it could be taken to the later stage of the meeting, not necessarily today, if you agree to it.

HON P R CARUANA:

Yes, I understand that is how the Chief Minister intended to end this meeting. It is not my intention to make this House to be convened tomorrow morning just for the purposes of considering the Committee Stage. I am not seeking to make a point, what I am seeking is to facilitate the businesslike considerations of the issues that have arisen, and therefore Mr Speaker, I think the best thing, if rules permit it, is for you to put the option to me after lunch.

The House recessed at 12.55 pm.

The House resumed at 3.15 pm.

MR SPEAKER:

Well, I think the question was going to be put whether all Members agree that the Committee Stage and Third Reading of the Bill could be taken today. I just wonder

what the position is now, whether the Chief Minister would like to clear the matter.

HON CHIEF MINISTER:

Mr Speaker, the Financial and Development Secretary will be moving at the Committee Stage an amendment which will remove little bits from the clause amending Section 6 of the Income Tax Ordinance which means that the legislation, as amended, will provide the clarification which says income from a trust received by a beneficiary is taxable income which is the final paragraph 8(i) and all the other explanatory elements of how this is arrived at, will be taken out of the law and the comments and the arguments that have been put in the House will be referred back to the tax office so that they can think again as to how they produce guidelines or whatever it is they need to produce. Let me explain for the benefit of the House that basically what we needed to do to avoid any doubt was to go as far as paragraph (j). The tax office then tells me that unless something was in writing explaining how the income was determined, that might create further complications and that is why, in fact, the subsequent part of that section was introduced for that purpose given the fact that the points that have been made by the Opposition clearly show that what has been put in is as capable of more than interpretation as not having anything. It is better not to have anything until we put the comments back to them and let them think again as to how it should be done. And on the second point which was the replacement of the existing section 55, what we proposed to do is not to repeal the existing section 55 but produce an amendment which will make clear that the payment of tax for the purposes of section 55 which is, of course, where it talks about the distribution of assets to shareholders, includes in the definition of payment of tax by the company, tax that the company would have had to pay either because it was PAYE deducted from employees or tax deducted from sub-contractors in lieu of PAYE. That will also be reflected in section 241 of the Companies Ordinance. The effect of what we propose to do is that there will be no time limit to that. However, since we are limiting it to PAYE, company tax which currently is a preferential charge, will cease to be preferential charge, so we are compensating the extension of no time limit for PAYE by not making company tax a preferential charge at all even for the 12 months that it is at the moment. That is what it amounts to.

HON P R CARUANA:

On that basis, I can give the consent because it seems that there is going to be very little ground left.

Question agreed to.

COMMITTEE STAGE AND THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause - (1) The Package Travel, Package Holidays and Package Tours Bill 1993; (2) The Dock Work (Regulation) (Amendment) Bill 1994; (3) The Criminal Procedure (Amendment) Bill 1994 and (4) The Income Tax (Amendment) Bill 1994.

THE PACKAGE TRAVEL, PACKAGE HOLIDAYS AND PACKAGE TOURS BILL 1993.

HON J E PILCHER:

Mr Chairman, it is just to advise the House that this Bill obviously was from a previous House which we, in fact, left in abeyance pending certain comment that was made by the Hon Mr Vasquez on behalf of the Opposition which I believe we have now taken into account and we are now bringing to the House on the basis that we have taken all, I believe, the comments of the Opposition at the time and therefore we are now ready to go through with the amendments that I have already notified Mr Chairman of.

HON P R CARUANA:

Yes, Mr Chairman, we have, in fact, on the basis of the clarification that has taken place in meetings and of the amendments, no comment at the Committee Stage, so Mr Chairman can take the Committee through in the quickest way that the procedure permits.

Clauses 1 to 28, as amended if amended, were agreed to and stood part of the Bill.

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

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

THE DOCK WORK (REGULATIONS) (AMENDMENT) BILL 1994

HON M A FEETHAM:

Mr Chairman, the Committee is aware that there are a number of amendments, some of them are as a result of misprints and some as the result of further

representations made since we published the Bill. As we are going to be amending some of the amendments that were brought about by the originating Bill, can I take it and unless the Opposition have got any point that is required to make that we can proceed. To facilitate as you did in the previous Bill, that is all I am trying to say. Is there any way you can assist with that, that is all I am trying to say?

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

Clause 3

HON P R CARUANA:

Yes, in relation to section 4 of the Bill which is clause 3 of the Bill. It is just to see what the Minister thinks about the point. The point that I made this morning to the effect that the Ordinance is silent as to who actually appoints the representatives of the employers on the one hand and the employees on the other. Before presumably this worked casually, I do not know how it has worked.

HON M A FEETHAM:

Casually no, they are nominated by the employers and employees, but let me qualify that. Because the employees are represented by the Transport and General Workers' Union, it is the Transport and General Workers' Union that nominate their representative and then we have got organisations like the Shipping Association and the actual port employers that between them decide who would be representing the interests of employers. Whilst they are representing the interests of employers and employees at the time of making a decision, they are actually making a decision as members of the Board.

HON P R CARUANA:

Right, but who does the Minister thinks appoints them, because section 4 that he has got in front of him says, "The Board shall consist of (a) the Chairman, (b) two members representative of the interests of registered employers one of which will be representative of registers of licensed stevedores," but who actually appoints them to the Board? There is no mechanism for actually appointing.

HON M A FEETHAM:

All appointments in relation to the Dock Labour Board have been made by the Governor previously. In this case, it would now be made by the Minister.

HON P R CARUANA:

So, this is the point that I was making this morning, that not only does the Minister appoint the three independent, but he actually chooses, if he wanted to and if he were minded to, from amongst the employers who he wishes to appoint to the Commission to represent the employers' interests, and similarly on the labour side.

HON M A FEETHAM:

No, in theory, we could say that that could happen, but it has never happened and is likely not to happen, for the simple reason that the Government recognise employers, associations and so on, and up to now I do not think there has been any employer that has made a complaint about somebody being appointed that have not been recommended by them. Strictly speaking, the Shipping Association, the Chamber of Commerce, the Transport and General Workers' Union, the Banking Association, those are the people we work with and appoint people that.....

HON P R CARUANA:

Yes, the point that I was making is that whereas before the appointment was made by the Governor, who was, one supposes outside of the political rough world, now because the appointment is being made by the Minister, it might be argued that it ought to be detached from the political process because it was not at a political process before. That is the point that I make but I do not propose an amendment in that respect.

HON J C PEREZ:

Mr Chairman, the only point to be made to the hon Member is that, in practice, the way things work in these matters is that the Governor takes the view of the Minister responsible for that area and the names that are submitted are automatically approved. We are merely taking something which is an administrative thing and putting it really where the responsibility lies, that is the only thing that has happened. In practice, the Governor has never refused a nomination by the Transport and General Workers' Union, or a nomination by an employer's association, or a nomination for an independent, because it is not a matter he would indulge

in and it is not a matter that a Minister would indulge in.

HON P CUMMING:

Mr Chairman, can I ask whether the Transport and General Workers' Union has been consulted about these changes, and if so, what is their view of the cut down to two members instead of four and the adding of independent members to the Board?

HON M A FEETHAM:

Mr Chairman, they have been consulted, and as far as I am concerned there has been no objection to having arrived at this stage.

Clause 3 was agreed to and stood part of the Bill.

Clauses 4 to 10.

HON P R CARUANA:

Yes, just one point. Is the Minister satisfied that the amendment of this letter which, in effect, shortens the transition time from 1978 to 1994, will necessarily work properly? In other words, what he is really saying is that the people who would be entitled to be registered are the people who are carrying out the work right now.

HON M A FEETHAM:

Yes.

HON P R CARUANA:

So somebody who has, for example, temporarily stopped two months ago, for example, is out. The cut-off date is very, very recent.

HON M A FEETHAM:

Mr Chairman, as far as I am aware, it is not excluding anybody, neither am I aware of anybody that for any reason has been prevented or suspended or whatever, or is in the process of an appeal that is going to be left out. I am not aware of anything of that nature. It is just that we have got to start and we just say everybody is there and continue in the future.

HON P R CARUANA:

Everybody is there now.

HON J C PEREZ:

As my hon Colleague has said there is no one that has temporarily stopped trading that would be caught by what the hon Member says, but definitely there have been people that have not been trading but under the existing Ordinance should have been stopped from operating and have not. There is a company there that has power to do this that and the other and the company stopped doing that for a long time. Although I think that company has been sold now. But that was the position before. The Dock Labour Board had actually not registered companies that had stopped operating and it is a condition that they should on an annual basis, and they have not been doing that.

Clauses 6 to 10, as amended if amended, were agreed to and stood part of the Bill.

Clause 11

HON P R CARUANA:

I am looking from the amended Ordinance now. Is the Minister satisfied that an appeal in favour of a person, would not he at least like to reserve the option to appoint more than one person as an appeal? I am looking at Section 12, so we are in the realms of Clause 11. Should that not read "may appeal to the person or persons appointed"? It would be unusual to appoint one lay person to review the decision of four other people, but the Minister might want that option available to him.

HON M A FEETHAM:

Mr Chairman, I have no problem with going along with that suggestion.

HON P R CARUANA:

The amendment would be very simple. It would be to add the words "or persons", between the words "person" and "appointed".

Clause 11, as amended, was agreed to and stood part of the Bill.

Clause 12

HON P R CARUANA:

Yes, Mr Chairman, there is just one point here in relation to the amendment introduced in the letter. The amendment to clause 12, to section 32 of the Ordinance.

Mr Chairman, there is no point in looking for it in the Bill, it is not in the Bill, it is Clause 12. But, in fact, it is not referred to that, the amendment only in the letter. If I could draw Mr Chairman's attention perhaps to the letter; the letter at the bottom of the second page, the amendment to Clause 12. The Minister has introduced an amendment, the effect of which is basically this. Whereas before the law read that a registered employer shall not employ any person other than a dock worker on dock work. In other words, that an employer shall not employ someone who is not a registered dock worker, an amendment is introduced for which, in effect, adds a caveat except with the prior consent of the Board. How does the Minister envisage that that will work? Does this Board have a secretariat? Is it a question of stopping the Chairman in the street and say "Look I would like to employ this chap tomorrow morning", or does this require a meeting and a decision of the Board in each case, and is it the sub-Committee of the Board that deals with registrations only that can do this, or is the main Board?

HON M A FEETHAM:

We are actually not doing anything that is not already happening. In so far as matters concerning with the powers of the Ordinance and regulations, it is a matter which is dealt with periodically by the Dock Labour Board and any matters which need to be referred to them is handled in that fashion. It is not a question of talking to the Chairman. It is a question of directing oneself to the Chairman or to the Secretary and the matter has been dealt at the full meeting. It is not as if this is something that has been happening, this has been going on now since 1978 at least.

HON P R CARUANA:

What, the employment of people who are not registered dock workers?

HON M A FEETHAM:

Yes.

HON P R CARUANA:

Which is what the amendment is intended to permit.

Clause 12, as amended, was agreed to and stood part of the Bill.

Clauses 13 and 14 were agreed to and stood part of the Bill.

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

THE CRIMINAL PROCEDURE (AMENDMENT) BILL, 1994

Clauses 1 to 6 were agreed to and stood part of the Bill.

Clause 7.

HON ATTORNEY-GENERAL:

Mr Chairman, I have an amendment to clause 7. In clause 7 (b) and in new sub-section (1), can we please delete the words "person or persons" and substitute the words "a person", and in paragraph (a) the words "an additional juror" are omitted and replaced with the word "he".

HON P R CARUANA:

The Attorney might generously have recognised that his amendment is prompted by a point that we have made to him. We were going to deal with this slightly differently, but that has the same effect.

Clause 7 as amended was agreed to and stood part of the Bill.

Clause 8 was agreed to and stood part of the Bill.

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

THE INCOME TAX (AMENDMENT) BILL 1994

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

Clause 2.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman I have got quite a lot of things. I have an amendment to propose to clause 2. I do apologise for not having given you notice of this, but I think you probably understand the circumstances. May I read it out?

MR CHAIRMAN:

Yes, if it is long and complicated, I think we should have it photocopied now and distributed.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

What we are proposing to do is to omit paragraph (b), that is to say, section 2 (b), but there are certain what I might call typographical amendments consequential upon

this. The usher has just been given a copy of this. If I may just sort of elaborate on the reasons for this. You now have a copy. We have taken note of all what the Leader of the Opposition has said on the matter of section 2 (b) and the comments on the various sub-clauses dealing with income from trusts in the hands of a beneficiary. In particular, the points he made about 25 per cent of the market value of the Mona Lisa. What we propose to do, Mr Chairman, is to leave in the reference to income received from a trust by a beneficiary of that trust, that is to say, the additional paragraph (j) at the bottom of the clause 2 (a) if the hon Member is still with me, and the Commissioner of Income Tax will, in due course, make regulations which he is empowered to do, which will take into consideration the points which the Opposition have made. That is the Government's proposals. So the consequential amendments I believe Mr Chairman now has a copy to follow from that particular change, that is as far as Clause 2 is concerned.

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

Clause 3.

HON P R CARUANA:

Could somebody explain to me whether they intend by regulations, perhaps, to create the corporation tax as something that already exists, or should that be at a standard rate of tax?

HON CHIEF MINISTER:

No, the position is that the 1989 rules already refer to the tax payable by a company as corporation tax and there will be rules that will make clear that the designation of a tax paid by a company is corporation tax, and that was brought in because in the reference in Community legislation to holding companies, there was a reference to the UK taxation system and not to the Gibraltar one. In 1989 when we introduced the Qualifying Company Rules to allow for us to benefit from the EC provisions on withholding taxes, we actually introduced in 1989, rules which introduced the words 'corporation tax' for the first time and there is a rule in the process of being made which will state explicitly that corporation tax is the income tax that a company pays. By calling it income tax we have difficulties in making it being recognised by other EC jurisdictions, because the EC legislation make reference to corporation tax in the Member state UK, so it is simply a definition.

Clause 3 was agreed to and stood part of the Bill.

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

Clause 5.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think you now have a copy of the amendment which I propose to move to Clause 5 and I believe the Learned Leader of the Opposition also has a copy. The effect of this, as I think the Chief Minister may already have explained, is to limit the preferential debt for this purpose and also, as defined in section 241 of the Companies Ordinance, to PAYE and sub-contractors. Tax in lieu of PAYE. That is the purpose of this amendment and all other provisions which were in the amending Ordinance have been withdrawn. There will be a consequential amendment obviously to clause 7.

HON P R CARUANA:

Mr Chairman, the effect of that proposal is that for the purposes of PAYE, all arrears and for the purposes of income tax any other tax assessed on the company up to the 30th of June next before the relevant date. It is still not clear, the income tax is still not limited, is still not capped. So all arrears of PAYE and all arrears of income tax, contrary to what the Chief Minister said earlier before the Financial and Development Secretary came in, stood up and explained that he had traded the PAYE for the income tax and it strikes me that he has not. I am thinking on my feet, and therefore I might have it wrong, but it does say "and for the purposes of this section only, shall also include all income tax, corporation tax and any other assessed taxes on the company up to the 30th of June next before the relevant date". So all arrears of income tax are preferential under the Companies Ordinance, unless I misread it.

HON CHIEF MINISTER:

No, no, Mr Chairman, what we are amending now is section 55 of the Income Tax Ordinance which is, in fact, limited to the question of distribution to shareholders.

HON P R CARUANA:

No, Mr Chairman, because if he looks at his amending sheet, although this piece of paper has just been handed, is an amendment to the Income Tax Ordinance, what it actually says is that in section 241 of the Companies Ordinance tax means as follows, so anything where tax, and for the effect of that, we have to look at the Companies Ordinance not the Income Tax Ordinance. It

might be two separate things, but the fact of the matter is that when we have adopted this amendment, we will have a Companies Ordinance that says that taxes are preferential and we will have an amendment to the Income Tax Ordinance that says "in the Companies Ordinance, Section 241 (1), tax means including income tax". In other words, I accept it is being done by amendment to the Income Tax Ordinance but the Income Tax Ordinance will be changing the definition of tax in the Companies Ordinance for the purposes of the Companies Ordinance. Because although the section says "for the purposes only of this section" and I suppose that that is the device that whoever has drafted this is relying on. This section means Section 55 of the Income Tax Ordinance and this section is not intended to mean section 241 of the Companies Ordinance. If that were made clear, then I agree that it is effective.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, the Leader of the Opposition will accept the amendment to clause 7 which I think he also has a copy. There is clause 7, that is to say, in the consequential amendment to the Companies Ordinance, section 241, if he has read it, will refer back to the Income Tax Ordinance, by replacing the word "assess on or otherwise due and payable by the company" by "specified for this purpose in Section 55 of the Income Tax Ordinance." If the Income Tax Ordinance it is only a specification, it can only apply to in one sense to shareholders and in the other to whatever it says in clause 7.

HON P R CARUANA:

Well, yes, so long as Hansard is clear to assist any court that may have to interpret this, that the intention of the House is that insofar as payment to shareholders is concerned, all arrears of PAYE and all arrears of income tax have priority, but in respect of preferences as between creditors, only PAYE and not income tax has priority. That is what we all intended to legislate.

HON CHIEF MINISTER:

That is the correct position and we believe the amendment achieves that purpose, and we are saying that on the record.

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

Clause 6 was agreed to and stood part of the Bill.

Clause 7.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think again you have a copy of the amendment which is proposed to clause 7, and I regret to say that a very small inaccuracy has crept in to this particular amendment. In the final line specified for this purpose in section 55 (1), that should read "55 (2) of the Income Tax Ordinance." If you would be so kind as to correct that Mr Chairman, then the whole amendment reads - clause 7 of the Bill is amended in paragraph (a) by omitting in new paragraph (aa) the words "assessed on or otherwise due and payable by the company" and replacing them with the words "specified for this purpose in section 55 (2) of the Income Tax Ordinance" and in the light of the exchange which the Leader of the Opposition has had with myself and the Chief Minister, it is probably not necessary for me to say any more.

HON P R CARUANA:

Mr Chairman, I have no doubt that we are now all agreed as to what we are trying to achieve and in this legislation and that any court that wanted to know what Parliament had in its mind would have no difficulty in coming to its conclusion, but you see without wishing to cast aspersions it is rather clumsily done, because the arguments are completely circular. I am told not to worry about the last five lines of section 55 (2) because that does not apply to section 241 of the Companies Ordinance. We then amend the Companies Ordinance in a way that says that tax for the purposes of the Companies Ordinance means the taxes specified for this purposes in section 55 (2). So having said that it only applies to section 55 of the Income Tax Ordinance, it seems to me that in the Companies Ordinance we are saying "and tax here means whatever it meant in section 55 (2) of the Income Tax Ordinance." I do not wish to do this. This is not the correct forum in which to be discussing points of drafting of this nature. It seems to me that it may not have been entirely successfully done in terms of drafting. We are all clear what we mean to do, but it ought to be made clear. Why cannot Section 241 (1) of the Companies Ordinance be left completely unaffected by references to income tax; left as it was before?

HON CHIEF MINISTER:

Because that is the reason why we are bringing the amendment to the House, because as it is drafted at the moment whether PAYE is covered by the existing definition, has been put in doubt.

HON P R CARUANA:

I do not mean PAYE I mean. Yes, certainly that has got to be left in - I mean in relation to income tax, why does section 241 (1) have to be changed.

HON CHIEF MINISTER:

Because, in fact, the argument that has been put is that if the PAYE does not belong to the company, then it is not part of the assets of the company that have to be distributed. This is why I think in the new section we are saying "for the purpose of this section only shall also include all income tax, corporation tax and other assessed tax of the company", because the reason why we are bringing this is not because of a lack of definition in the Income Tax Ordinance but because of a lack of definition in section 241 as to what other liabilities of the company which is put in liquidation. It has been questioned in relation to PAYE and not anything else. Now, frankly, like anything else, I imagine until it is tested whether it works.

HON P R CARUANA:

Alright, Mr Chairman, it is my last word on the subject. I am quite happy as to the intended outcome. We end up with a Companies Ordinance that reads as follows, "In a winding up there shall be paid in priority to all other debts." Paragraph (aa) would read "in a winding up there shall be paid in priority to other debts (a) rates, (b) all taxes", "assessed on or otherwise due and payable by the company" goes out and are replaced by the words "all taxes specified for this purpose in section 55 (2) of the Income Tax Ordinance." That is what paragraph (aa) would read like. In terms of income tax, what is the priority? The priority is for all taxes as specified for this purpose in section 55 (2) of the Income Tax Ordinance. So that is what has priority; taxes as specified in section 55 (2) of the Income Tax Ordinance. We then go to the Income Tax Ordinance and find that section 55 (2) is PAYE etc. etc., and for the purposes of this section only includes income tax. Income tax has been left back in by defining the priority taxes in paragraph (a) by reference to section 55 (2) which includes for the purposes of that section, income tax. It is almost worth, Mr Chairman, having a five minute recess or abandon the point.

HON CHIEF MINISTER:

I think the answer is that in section 55 (2) (b) what we are saying is for the purpose of this section, i.e. the section in the Income Tax Ordinance, and for the purpose

of section 241 of the Companies Ordinance, "tax which may be payable by a company means any sum of the relevant date from the company on account of tax deduction which the company is required to make by a provision of this Ordinance." The tax deductions they are required to make are the PAYE and sub-contractors. And for the purpose of this section only, that is for the purpose of the section of the Income Tax only, not the one in the Companies Ordinance.

HON P R CARUANA:

Agreed so far, but means paragraph (aa).

HON CHIEF MINISTER:

Yes, but I mean when we go to paragraph (aa) we go back to here and we say what does tax mean in the Companies Ordinance, and in the Income Tax Ordinance it says that tax means PAYE and company tax for this section only and PAYE for the other one.

HON P R CARUANA:

Alright, Mr Chairman if it were not that Hansard would be available, a court could have fun in deciding what that means, but in the event which happen the explanation is clear. As it has already been recorded in Hansard 10 minutes ago, it therefore does not seem worthwhile pursuing this drafting point, but I leave it on that basis, on the basis that the intention of Parliament is clear.

Clause 7, as amended, was agreed to and stood part of the Bill.

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

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Package Travel, Package Holidays and Package Tours Bill 1993, the Dock Work (Regulation) (Amendment) Bill 1994, the Criminal Procedure (Amendment) Bill 1994, the Income Tax (Amendment) Bill 1994 have been considered in Committee and agreed to with amendments and I now move that they may be read a third time in part.

Question put.

On a vote being taken on the Package Travel, Package Holidays and Package Tours Bill 1993, and the Criminal Procedure (Amendment) Bill 1994, both with amendments, the question was resolved in the affirmative.

On a vote being taken on the Dock Work (Regulations) (Amendment) Bill 1994 and the Income Tax (Amendment) Bill 1994, both with amendments, the following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon P Cumming
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 L H Francis
The Hon M Ramagge
The Hon F Vasquez

The Bills were read a third time and passed.

The House recessed at 5.15 p.m.

The House resumed at 5.40 p.m.

PRIVATE MEMBERS' MOTIONS

HON P R CARUANA:

I have the honour to move the motion standing in my name which reads -

"This House:-

1. Notes that Gibraltarians and other EU Nationals resident in Gibraltar continue to be denied the right to vote in Gibraltar at elections to the European Parliament;
2. Asserts Gibraltar's rights to be included as EU territory for voting purposes given that Gibraltar forms part of the territory of the European Union;
3. Calls on Her Majesty's Government to forthwith take such steps as are necessary to enfranchise the territory of Gibraltar for elections to the European Parliament".

Mr Speaker, this issue of Gibraltar's rights as a territory to vote at European Parliaments elections is an issue on which happily there is to be a broad consensus of Gibraltar, politically. There are other institutions and other organisations lobbying quite hard for the recognition of this right, and I think that is right and proper that this House as the Parliament of this community, should express hopefully its unanimous view on this subject, so that certainly the House of Assembly will not have failed to have expressed Gibraltar's position on this issue. So that when other organisations in Gibraltar go abroad and lobby on this, they can say that they are lobbying with what will hopefully be the unanimous support of the Gibraltar Parliament. I think that it is important for the record of this House which is Hansard, to go briefly through what we see to be firstly, the legal mechanisms of the European Union which support the assertion that Gibraltar is entitled to be included, and secondly, to take the House hopefully, equally briefly, through what has actually happened which I say causes those rights that we have, to be infringed. The starting point has got to be Article 227(4) of the European Community Treaty (The Treaty of Rome). For once the language of this article helps us, because it says "the provisions of this Treaty", in other words, it does not say simply Gibraltar is part of the European Union, it says more, it says "the provisions of this Treaty shall apply to the European territories for whose external relations a Member State is responsible," namely, Gibraltar viz a viz the United Kingdom. Therefore it is unarguable that whatever the Treaty of Rome says about voting rights, is by Article 227(4) directly applicable to the territory of Gibraltar being a European territory for whose external relations a Member State, named in the United Kingdom, is responsible. What then does the Treaty of Rome say about the rights to vote at Euro elections of people that the Treaty says are entitled to this right which we have now established is us by virtue of Article 227(4)? Well, Article 137 of the Treaty of Rome says that the European Parliament which "shall consist of the representatives of the peoples of the State brought together in the Community shall exercise the supervisory powers conferred upon it by this Treaty." And Article 138(3) of the Treaty of Rome says "the European Parliament shall draw up proposals for elections by direct universal suffrage in accordance with the uniform procedure in all Member States." Now, in fact, the uniform procedure in all Member States." Now, in fact, the uniform procedure has never been brought in, in the sense that every European country continues to have a different voting system. The United Kingdom chooses its Euro MPs by reference to the Westminster system of voting, and in France they continue

to do it by PR etc. So no uniform procedure has been brought in, but the rest of the article has been given legal effect to in a way which I hope to explain to the Government Members in a moment. Article 138 (3) goes on to say, "The Council shall, acting unanimously after obtaining the assent of the European Parliament which shall act by a majority of its component members, lay out the appropriate provisions which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements." Therefore, Mr Speaker, I say to this House that what I have read so far establishes two vital issues, first of all, that the Treaty of Rome itself says that the Treaty extends to Gibraltar (Article 227 (4)) and secondly, that the Treaty of Rome says that voting for the European Parliament must be by universal suffrage which means everybody that has the right. In 1983, Her Majesty's Government submitted a formal declaration on the part of the British Government which made it clear that when in any European Community Treaty or document or agreement, the terms national, national of Member State, or nationals of Member States and overseas countries and territories were used, the United Kingdom declared that that would mean and include Dependent Territories citizens who acquired their citizenship from a connection with Gibraltar. In other words, the United Kingdom said to the European Union that the people of Gibraltar are United Kingdom nationals for all purposes of the European Union including the Treaty of Rome and all other subsidiary treaties. Therefore, there can be no doubt in my mind that the people of Gibraltar are nationals of a Member State for the purposes of the European Union, that Gibraltar is a territory of the European Union by virtue of Article 227 (4) and the provisions of the Treaty of Rome extend to the territory of Gibraltar. The next development in relation to this matter was Article 8 of the Maastricht Treaty. Article 8 of the Maastricht Treaty reads in various parts, "(1) citizenship of the Union is hereby established. Every person holding the nationality of a Member State" which Britain says is us by virtue of its declaration, "shall be a citizen of the Union" We are therefore citizens of the Union. "(2) citizens of the Union shall enjoy the right conferred by this Treaty and shall be subject to the duties imposed thereby." It is therefore not arguable that Gibraltar and the citizens of Gibraltar are not bound by and enjoy the rights under the Maastricht Treaty. Article 8 (b) goes on to say - "Every citizen of the Union," which includes us, "residing in a Member State of which he is not a national, shall have the right to vote and to stand as a candidate of municipal elections in the Member State in which he resides under the same conditions as national of that State," and Article 8 (2) (b) has a similar provision in respect of elections to the European Parliament.

What, has happened, in fact, and notwithstanding those rights, is that in the legal mechanisms adopted to implement the obligations of the Member State under the Treaty of Rome, to create a voting system, we have been excluded from that. Now, the way that the European Union dealt with voting was that the Council of Ministers on the 8th of October 1976 and its Council Decision 787 of 1986, adopted what is called a decision of the Council which is directly binding on its Members. That decision did nothing more, absolutely nothing more, than attach an Act called "Act concerning the Election of Representatives of the Assembly by Direct Suffrage." So the Act was the blueprint passed down by the Council of Ministers to all the Member States as to how they had to implement the Treaty of Rome and the Maastricht Treaty provisions on voting. Well, the Treaty of Rome obviously at that stage, because Maastricht had not yet been passed. Article 1 of that Act, and this is the Act that some British Ministers refer to when they say it has the status of an argument. They are not referring to the Act of the United Kingdom Parliament which is passed subsequently to that. The Act is the Act and it has got the word "Act" at the top of it; it is a European document not an English document, is the Act attached to the decision of the Council of Ministers. Article 1 of that Act says - "The representatives in the Assembly of the peoples of the State brought together in the Community shall be elected by direct universal suffrage." There is then another six or seven articles and it goes all the way to Article 16 and they deal with the mechanics of the voting procedures and how long MPs are elected for, and the rights of MPs and all of that. We are not concerned with that at this stage. There are two annexes attached to the Act. In Annex 1, Denmark places on the record that the Danish Authorities may decide on the dates on which the election of members to the Assembly shall take place in Greenland. So, the Danes decided that the people of Greenland could vote in Greenland to the European elections. I have read the whole of Annex 1, it is not long, it is two lines related to Greenland. Annex 2 reads - "The United Kingdom will acquire the provisions of this Act only in respect of the United Kingdom," and when British Ministers say that now we are stuck with an Act that has treaty status and requires the consent of the other Member States, they are referring to this Act because they say it is attached to a decision of the Council which is signed by all the Foreign Secretaries of the then other eight Member States. The last legal document involved in this problem is what the United Kingdom did to British law in order to provide the detail for the elections, and that is the European Assembly Elections Act of 1978, an Act of the United Kingdom Parliament which could certainly not require any approval

or agreement by any other Community country to amend, but that does not help us because, in fact, this does not mention Gibraltar even to exclude us. They took the view presumably that by then they had done all the excluding that was necessary and when they came to do the nitty gritty of the elections there was no need to mention Gibraltar. And just for the sake of the interests of the hon Members and who may not know, the regime chosen in the United Kingdom for voting was that the right to vote would be as per elections to the House of Commons. In other words, the same voting system would be used. That the European Constituency would comprise two or more parliamentary constituencies, of course, and Gibraltar is not included in any parliamentary constituency and find that there is no mention of Gibraltar. Mr Speaker, recently one has heard the arguments that, in fact, Gibraltarians are not excluded from voting. It is the only the territory of Gibraltar that is excluded from voting. I think that that argument is only half correct, because it did lead some people to think, judging by questions that were put on the television by the Chairman of the Gibraltar representatives organisation, that the Gibraltarians resident in Gibraltar were not disenfranchised because if we were minded to spend the money, we could hop on to an aeroplane on voting day, nip across to London, vote somewhere in England and come back. Or that any Gibraltarian that had been minded to do so, could have nipped across the border and vote in La Linea and nipped back. In fact, that is not the case because the rules established by the European Union contained in Council Directive 109 of 1993 make it clear that the right to vote at Euro elections in a country other than the country of which one is a national, is subject to one being resident in that country. So Gibraltarians are only not disenfranchised. In other words, the only Gibraltarians that could vote are Gibraltarians that actually reside in the United Kingdom, or Spain or France or somewhere else. The Gibraltarians that reside in Gibraltar and therefore by definition do not reside anywhere else in the European Union, are disenfranchised altogether, because they cannot vote either in England, or in Spain or anywhere else because they do not reside in those countries. So those of us who reside in Gibraltar and who are Gibraltarians cannot vote anywhere. Anywhere at all because we do not comply with the residence requirements that Spain has and the residence requirements that the United Kingdom has for their own national elections and for the right to vote on their own nationals in their own countries. The decision of the United Kingdom Government to insert Annex 2 to the Act; the one that says that the United Kingdom will only apply this Act to the United Kingdom, was presumably the voluntary decision of the United Kingdom. I cannot imagine that any other European country, given that Spain

was not a Member at that time, I cannot imagine that any other European country put pressure on the United Kingdom to insert Annex 2. I mean, I really cannot imagine that France would have been concerned about Gibraltar's inclusion, but would have been happy for Denmark to include Greenland. So it may well be that Britain now has to invest some diplomatic effort to correcting this situation. But certainly it is not something which affects the rights of other Member States in the sense that Britain only put it there in the first place for her own purposes. And there is another argument from which Britain cannot escape. Even if Britain is unwilling or finds that she is unable to enfranchise the territory of Gibraltar, which is, of course, what we in Gibraltar want, the enfranchisement of the territory. Britain cannot escape from the argument that had disenfranchisement of Gibraltarians that are resident in Gibraltar, is illegal, because it is Britain that has told the European Union that citizens of Gibraltar are UK nationals for Community purposes. We are therefore in a position where there are 28,000 UK nationals for Community purposes here in Gibraltar who enjoy by virtue of the Treaty of Rome the right to vote and for whom Britain has made no provision to allow us to vote even if we all went to England and voted there, because the rule would not permit us to vote even in England on voting day. Therefore whatever other arguments she may have in relation to the territory, she is unquestionably by her own arguments, by the declaration that she herself has made, she has conceded that she has disenfranchised 28,000 of her own nationals who have the right to vote nowhere because they reside in Gibraltar and not in the UK or in any other Community country.

Mr Speaker, the arguments raised by the United Kingdom in relation to her position on this issue are set out in the letter dated the 31st May 1994 addressed to His Excellency the Governor on behalf of the Foreign and Commonwealth Office to the Chairman of the Gibraltar Representatives Organisation. I would ask that those hon Members of the House who were present in the European Union annual meeting and who have heard some of these arguments before, to bear with me, I will repeat them briefly only to put them on the record of this House's debate on this issue. The first argument for denying Gibraltar what they call a dedicated MP, although I suppose logically speaking, if the argument is right, it is also an argument not just against the dedicated MP but against being included in a constituency of the United Kingdom. What they argued was, in these words, "However, there are important areas of Community activity, for example the common agricultural policy which do not affect Gibraltar but which are the regular focus to scrutiny of the European Parliament. It is not easy to argue that Gibraltar

should have influence over areas of Community activity from which it has chosen to be excluded." Quite apart from the fact that I know of no parliamentary principle that suggests that one is only entitled to be represented in the Parliament if and whilst it debates things which affect ones constituents, ignoring that, because if that were true, every time the House of Commons discuss the finance centre, presumably the MP for the Shetland Islands would have to stand up and say "Well I better go because my constituents in the Shetland Islands have no interest whatsoever in the City of London and how it is regulated." But, of course, there is this argument that of all the Community countries that might wish to argue that we should not be represented in the Parliament because the common agricultural policy does not apply to Gibraltar, Britain is perhaps the only country that cannot raise that argument for the simple reason that she herself has opted out on what is one of the principal areas of legislation of the European Union which we can all bet our last dollar, will engage the European Parliament over the next four years much more than the common agricultural policy, and that is the whole area of this social legislation, the social chapter, workers' right etc. It really is something of an old goal by whoever in the Foreign Office put pen to paper with this argument. The other argument that they use in this letter is that, "Similarly Gibraltar does not levy VAT and is therefore not a contributor to Community resources." Well, first of all I suppose is not entirely impertinent to comment but, of course, the European Parliament does not levy taxation any way, so this is not a Parliament in which we would be discussing the levying of tax which we would then not be paying, but even leaving that point to one side, as I said on the previous occasion that I addressed this argument outside of this House, there is no doctrine of democratic parliamentary systems which says that one cannot have representation in a Parliament unless one is subject to the taxation of that Parliament. I remember when I did my 'A' level constitutional law being taught a slightly different maxim, which as that one was not to be subject to taxation unless one was represented in the Parliament. In other words, no taxation without representation. Hon Members will remember that bails of tea were burnt on the other side of the Atlantic on the back of that slogan: No taxation without representation. In other words, that a person should not be subject to the taxation of the Parliament unless he is represented in that Parliament, but that is the opposite of "No representation unless you pay taxation." It is a complete..... I think the word I used was bastardisation; it is certainly a complete confusion and reversal of the maxim. They have converted the maxim no taxation without representation into one that reads no representation without taxation. I know of

no principle, and I am sure Erskin May knows of no principle either that justifies that line being taken. There are many, many constituents in Parliaments all over the world, in Europe, indeed in the United Kingdom who are represented by their MP and who they themselves may not be taxpayers either because they are pensioners or because they are unemployed or because they are under age because they do not work; for any number of reasons. Most people represented in a Parliament are, in fact, not taxpayers. There was this argument that there was no European constituency with which Gibraltar had strong historical or cultural links. Well, it really is satisfactory that arguments like that should need to be referred to because at least we can rest assured that there are no stronger arguments lurking in the background. What is the strong historical or cultural links between Greenland and any particular European constituency? Not that in imposing that rhetorical question I am willing to concede the point that we need to have a strong historical or cultural link with the constituency before we can have our right to vote recognised. But in any case, if they want to resort to trivial arguments, I do not think we ought to be shy in resorting to trivial retorts. The Church of England which is part of the British State, established within the British State by Act of Parliament, had no difficulty in incorporating Gibraltar in the diocese of Fulham for the purposes of the Church of England. Hon Members will remember that before the creation of the diocese in the Anglican Church of Gibraltar in Europe, the diocese used to be called Fulham and Gibraltar and the Bishop of Fulham was also the Bishop of Gibraltar and it was one territorial diocese. There is a strong historical or cultural link between Gibraltar as far as the British state is concerned. There is a strong historical or cultural link between Gibraltar and the diocese of Fulham. I have no doubt whatsoever that we have the legal right to be enfranchised not just as individuals but as a territory. Leaving to one side the legal arguments who can doubt, morally or democratically, that we should not get the right to vote? Why should Britain, the mother of all parliamentary democracies, wish to deny us the right to vote in the new emerging Europe? Britain's proposition may have sounded defensible when they limited their arguments to what I call the logistical or the arithmetical arguments. In other words, "There are mathematical difficulties. There are only 28,000 of you and the constituencies in the United Kingdom are much larger". Whatever we think about the merits of our case, independent observers might have thought, "We have got to find a way around that logistical problem. We have got to find a way around that arithmetical problem." Unfortunately, for the first time in the letter from His Excellency the Governor to

the GRO, Britain began to defend her position in denying the right to vote for the people of Gibraltar not on logistical and arithmetical arguments but on arguments of democratic principles. "You are not in the CAP. You are not in this and you are not in that. Why should you have the right to vote?" For the first time Britain was publicly and in writing questioning whether as a matter of democratic principle we ought to have the right to vote and she finished by saying, "The points of principle are not clear".

Mr Speaker, they may not be clear to the Foreign and Commonwealth Office. I am confident that they are clear to every hon Member of this House. I am confident that they are clear to objective European democrats and political observers. I am confident that they will be clear to the new European Parliament. This is not an argument that we can afford to drop or that we can afford to lose and I therefore commend my motion to the House.

Question proposed.

HON P CUMMING:

Mr Speaker, I am very tempted to discuss the ins and outs of the care of lemon trees and how to produce a good spinach to give the satisfaction to the Panorama that my ownership of a small finca in Spain affects my speeches and my voting rights but I shall resist that temptation. There is no doubt that this motion has good aspects and the subject matter on which one would have thought that on the face of it, we could all be unanimous and do something good with this motion. If anybody asks me "Would you like to vote?". I would like to vote. It will not make my day or it will not be something very tremendous but yes, on the whole, I would rather vote in the European elections than not. If there has been one good aspect that this debate has attracted the media attention from UK has all been favourable and this is very good for a change, that media interest in Gibraltar should be on our side as it has been over this question. On the whole this is something that we are united on and something we agree with and something we would like. I would like to go just a little deeper into this question. First of all, I have done my homework. The Leader of the Opposition has gone into this in detail and I just want to go in much more superficially; a layman's view rather than a legal view. The Governor stated that any change would require unanimous agreement of all Member States and subsequent adoption by each Member State; a kind of ratification he says. If this is true it means that Spain can sabotage it and if it can will and therefore it will not be possible. If the Governor were to be lying and I notice that in Michael Llamas's letter to the paper

he says, "This statement is devoid of any legal substance or foundation". But having dealt with lawyers in the past at close quarters I wonder whether that means that it is a lie. I have been trying to look at the two, breaking my head over what it was. I wonder whether in the end it does not make all that much difference unfortunately, because really if we mount a great campaign for this to succeed and one wonders if we were to win the campaign what is the success. The benefits of success are meagre because the European Parliament is powerless. Some would think that the European Parliament will increase and increase its powers. The Committees of the Regions will become more and more active etc, and somehow nation states will disappear and it will be Brussels and the regions. Of course, this may evolve over many years. It seems most unlikely to be for the main reason that the national parliaments would have to vote themselves right out of existence and give up their own power voluntarily in order to pass it on to the regions and that seems most unlikely to me. The only way that the European Parliament could become a powerful and effective body is by taking those powers directly from the national parliaments and to date I think no movement whatever in any of the countries of Europe to give up that power to the European Parliament.

If we got our own MEP that would be wonderful, a great deal of lobbying would be accessible to him and probably they would charge us for it and it would cost us £50,000 a year since we do not pay VAT, they would say that we pay him ourself. It has been suggested locally that it would be in our interests to have a man of our own in Brussels who would look out for legislation coming on line which affected us so that we would be forewarned and then warn the appropriate UK Government Department to be on the lookout that this legislation will affect us and we want it done in this and that way. But no one has suggested other than through this election thing that we need a man in Strasbourg. Having an MEP would be in Strasbourg not in Brussels. A man in Brussels has been suggested as a very useful thing to us but a man in Strasbourg, a lobbyist. I would like to compare for a moment attitudes to the European elections in the European countries and what seems to be a prevalent local view. The Chief Minister has already gone public on this underlying the general apathy with which the European countries treat the European elections and in fact in the UK apparently 36 per cent of voters took the trouble to go and vote in the European election and some polling booths had been open for an hour and five or six people had voted only. It attracts very little attention in other European countries, not just in UK, and they all seem to use it as a referendum on local issues, on national issues, not on European issues. In UK we have

seen how important this was as a sort of popularity poll for Mr Major and how they said it was a great success because they only lost 30 seats instead of 45, or something like that. It is significant it is simply secondary as a useful opinion poll. The apathy with which the rest of Europe treats their election with the kind of desperation we feel in some quarters locally to establish these elections here; the difference between the two attitudes seems to me to indicate a little bit of pathology in our own local attitude. Many people think that this is the great panacea. That somehow we are going to see enormous benefits, it simply is not. We would be misleading our people if we encouraged them to build up this bandwagon and this campaign for enfranchisement in Europe because this is going to be useful lobbying but lobbying is the icing on the cake and it can never take the place of real, political activity such as dialogue and discussions and talks and negotiations and diplomacy. These are the political activities that can solve the problems, not the lobbying. The lobbying is the icing on the cake and here what we have is a lot of icing on the cake and no cake. Why, I would like to ask, is this an issue now when it was not a issue in 1973? In all those years between 1973 and 1982 when Spain joined it would have been so much easier to have made a successful campaign. The reason that it is now an issue is that the Self-Determination Group has taken it upon themselves to move this campaign forward and to promote the matter and to move it and to get people involved and this is why this is now an issue. To me, who came to politics through the GSD, believing and hoping that the Brussels process was the flagship of the policies of that Party, the fact that it seems not to be is the reason that I am not in the Party now. It is painful to me nonetheless that the torch lit from the Self-Determination Group, not because of the lobbying, everything they do is excellent but it is the political position that they are putting forward which is frankly absurd that we should fight and fight for an idealist, abstract concept of self-determination not made concrete in a definite policy for which we could unite to fight and say, "Paralyse all movement until this is accepted round the world and then we will move on in a practical manner". This is part of their philosophy and the GSLP's of being antagonistic totally to the Brussels process and instead having a policy of provocation and resistance to not only Spain but Britain also. It is painful to me that that torch lit as this is an issue by the Self-Determination Group should now be brought to this House by the GSD and brought back to the GSLP so it goes round in a circle. I do not object to being enfranchised. I am in favour of it but it is the signal. We talk about sending out wrong signals and this is a right signal to the UK but it is a wrong signal to our own people because

it raises up their expectations for a solution brought about by pushing this campaign when there is no trace of a solution at the end of it. This is a drowning man clutching at straws. This is myopic political vision to our future. It has become clear, unfortunately, 20 years ago we hoped, as a community, that the European Union will bring the solution to the Gibraltar problem and it will not. Now it is clear that a solution will not come from Europe because they have all made clear they will not involve themselves in this matter. This is a matter for Spain and Britain to sort out between them. Britain has said, "Yes, we are going to put that between us but always with the consent of the Gibraltarians, taking the Gibraltarians along with us". We will not cooperate with that process. Therefore, this has put me in a quandary because I would like Gibraltar to participate in this and I would like to support this motion but on the other hand I see a wrong message going to our own people. The right message going to the UK but the wrong message to our own people. The Chief Minister has said Britain lacks the political will to take this matter up and I agree with him. It does because 14 years ago they agreed with Spain that the solution to this problem; the future of Gibraltar would come from negotiations between them in which we would be involved as per the Brussels process and in which we would have the veto. We want to take Britain along with us as it were a rottweiler on a lead and when somebody attacks us we are going to set it free so the rottweiler goes to attack in our defence. That is how we would like Britain to be, as I would like it to be too. But it is not. It will not and it will never be because the British interests do not any longer coincide with Gibraltar interests, unfortunately but it is one of the realities of life we have to face. We would like to see a different attitude from Spain more in line with democracy and liberal thinking and very often we refuse to see the problem from their point of view and I think it is healthy for us in order to see our road ahead to try and understand it from their point of view. Gibraltar to them is a monument to their failures and to their weaknesses and not to the glory history but to the inglorious history, to being under the boot of the British where Drake used to sail into Cadiz whenever he wanted and beat them up for the fun of it and today 300 years later we go to the Carnival and they always have a chiringota about the British Royal family in the worst possible taste. This is the folk memory of hatred to Britain and the British Royal family because of the humiliations inflicted upon them constantly. We have got to go and explain to them our history because they do not know our history. We have got to tell them our history. We have got to say, "The national rule was inflicted by Britain, not by us, we are victims of this...."

MR SPEAKER:

I must call the attention of the hon Member that we are discussing the enfranchisement of the Gibraltarians and you must not wander away. I have been very liberal. Would you please address yourself to the motion.

HON P CUMMING:

This motion in which many people believe will foster Gibraltar's position in the world, in fact does not get us much further down the line if it were successful with an enormous effort which it will not be. As hon Members will know in my own political thinking an Andorra-style status is what I believe in and what I aspire for for Gibraltar. I make this relevant immediately, Mr Speaker, because they do not vote. I have just come from the Isle of Man and they have not voted and they did not even know the elections were on, they could not care less. They want for nothing and in Andorra they want for even less and certainly they do not want elections there because even though as it might have been pointed out the links with VAT, whether one pays taxes or not, that is a nonsense to try and make that link. But there is definitely a link between having an MEP and being enfranchised and obeying the laws that are made through that structure. In Andorra because they have two states which are friendly with them and are willing to support them, so they have the best solution possible. They have all the advantages and none of the disadvantages.

MR SPEAKER:

I am sorry, I must stop you there now. You must address yourself to the motion. Andorra is not included in this motion.

HON P CUMMING:

I would like to see then far from being enfranchised when we come to a solution and a settlement not to be in the political aspects of the Union so that we are not bound by the Directives. Then we would not be obliged to pay pensions. We would not need a 1st July law because we would simply say, "All non-Gibraltarians need a work permit" and we would have none of the hasslement of dealing with Directives and worrying about Europe. It would be a useful standard to compare ourselves to but not a duty.

I would like, finally, to say that I take objection to one word in this motion and in the third clause this motion calls on Her Majesty's Government to forthwith take such steps as are necessary. Mr Speaker I object to

the word "forthwith". I think it is peremptory, the word that we were using this morning, and unfriendly. It is courtroom language and we have already had one bitter experience of courtroom activities. If the hon Members present put the high store and that is to say believing that the Government will unanimously support this motion and believing in it at superficial level as I do and not wanting to spoil this possible potential unanimity on this subject, I would ask for this word to be withdrawn and replaced with another word. We call upon Her Majesty's Government to take such steps as are necessary. We could even say as soon as possible. It does not have the connotation of "forthwith", and I would ask the hon Members present to rephrase it to help me see my way to supporting this motion in spite of the wrong signals that I believe it gives to our own people that we are busy here with the high affairs of state, that it is going to make a lot of difference to our future when in fact this is not so; to help me to be unanimous with this by withdrawing the word "forthwith". Thank you, Mr Speaker.

HON J C PEREZ:

Mr Speaker, before I continue I would like to know, since the hon Member has given the indication that he is against the motion but is going to vote in favour of it and he is proposing that someone should amend it, what is he going to do? Is he going to propose the amendment or is he suggesting that we ought to propose the amendment on his behalf regardless of the fact that he is going to support it anyway, notwithstanding the fact that it gives the wrong signals and he is against it. Before I reply on behalf of the Government, I would like to know what the position of the hon Member is and I am prepared to give way if the hon Member can clarify that.

HON P CUMMING:

Mr Speaker, it is obvious that my position will not be easily understood and will be easily distorted by political enemies as just happened. Nonetheless, that is the rough and tumble of political life. How do I amend?

MR SPEAKER:

If you wish to put an amendment, you can then say that you wish to amend the motion and you put in your amendment. This is of course to delete "forthwith" and you insert whatever other wording you want to or if you do not want to insert any other word then you do not. You may have to start debating the amendment now.

HON P CUMMING:

That can be done very briefly. Mr Speaker, I would like to propose that an amendment to this motion by deleting the word "forthwith" in clause 3.

Question proposed.

HON P R CARUANA:

Mr Speaker, if the price for unanimity is to find a word that the Hon Mr Cumming might find less offensive than "forthwith" I am prepared to search for one so long as the word that we find is not one that makes the motion voluntary from the point of view of the British Government. In other words to say if possible is tantamount to saying that we understand that it is not possible and therefore do not bother to try it. If, on the other hand, the Hon Mr Cumming is concerned that the language is discourteous and given that discourtesy is always furthest from my mind, I am quite prepared to entertain his proposals.

MR SPEAKER:

May I just explain the procedure. An amendment has been proposed. That amendment can be amended so if the Leader of the Opposition wishes to amend that by adding the words that he wishes to put in in the vacuum that has been left by the deletion of the word "forthwith", he can do that.

HON P R CARUANA:

Mr Speaker, I am not in favour of deleting "forthwith" and replacing it with nothing. I am saying I do not support the amendment because I am not prepared to deprive from this motion all sense of urgency and if this is not a sort of theoretical exercise, We call upon the British Government at the very least to have enfranchised Gibraltar in good time for the next round of elections. I am quite prepared to soften the language to make it less discourteous without conceding that it is discourteous but what I am not prepared to do is to deprive the motion of its sense of impetus which is part of the campaign which is currently taking place in Gibraltar to not lose the momentum of this simply because the elections have finished. This is not something to be put in the self. This is part of a campaign; this is this House's contribution as a parliament to the campaign to make sure that we are enfranchised at the very least in time for the next election. I would propose only because I think it is of value to Gibraltar to have unanimity on this. We know that the Member agrees with

the motion only superficially, to use his own language, but I think unanimity on whatever basis is valuable and I would propose that we call on Her Majesty's Government to take such steps as are necessary to enfranchise the territory of Gibraltar in good time for the next election to the European Parliament.

HON CHIEF MINISTER:

I am a bit confused. As I understand it we have got a motion where the Opposition Member has moved an amendment deleting a word and we have not voted to delete that word. We have now had a situation where the Leader of the Opposition has moved to add three words. Presumably, if we, with the Government majority were to vote against his amendment and in favour of his we would finish up with a motion which said "We call on Her Majesty's Government to forthwith take such steps in time for the next elections" which we are able to deliver with our majority.

MR SPEAKER:

We can vote it that way of course because first of all now we take the amendment to the amendment and what we are amending is not to delete the word "forthwith". That is not what we are going to vote now. We are going to vote first of all the words that have been inserted by the Leader of the Opposition which is delete the word "for" and insert "in good time for the next elections of the European Parliament".

HON J C PEREZ:

Mr Speaker, if we take the amendment to the motion put by the hon Mr Cumming first, then we know whether.....

MR SPEAKER:

We cannot because the procedure is that we always start voting on the last amendment.

HON P CUMMING:

Mr Speaker, can I try to simplify a moment. Could I perhaps say to amend by taking off the word "forthwith" and replacing it with "as soon as possible".

MR SPEAKER:

No, now it is a different thing. You would be out of order.

HON P CUMMING:

I have been hearing from the Government side that of course it is within their power to do what they like with the motion. The question was the value which they give to unanimity. They do not give too much to unanimity. I am going to vote against it as it stands. If the word "forthwith" is removed and replaced with something less discourteous then I am accepting. If it is worth to the Government to get unanimity by going that far, that is fine, if it is not they do not care about unanimity.

MR SPEAKER:

What we are going to vote on then is on the amendment proposed by the Leader of the Opposition, which is an amendment to an amendment.

HON P R CARUANA:

The Chief Minister is perhaps right. Given that the amendment is to delete a word, I am not sure that adding three new words, six lines further down, from where he wants to delete the word, is an amendment to his amendment. It is a new amendment to my own motion. I do not see that I can amend his amendment which is to delete a word by adding four new words in a completely different part of the text. I think we have got to deal with this one step at a time. I think we have to vote on his amendment. I am quite prepared to move the amendment that I have moved any way.

MR SPEAKER:

So the result will be the same. If you wish to keep the motion as it is the House will vote against your amendment and then we will vote against his amendment. If the House wishes the motion to be as you amended it then he votes for you now, in favour of that, and those against vote later. So you get to the same place in a roundabout way perhaps but it is the procedure. You always take the last amendment first. If you get into another situation you get into problems later.

HON P R CARUANA:

Mr Speaker, I really do believe that the word "forthwith" is not central to the meaning of that motion. I am quite happy if it will secure unanimity in this House, to move the amendment which I have proposed as a separate one. I am prepared to amend my own motion in the terms that I have passed up to Mr Speaker.

MR SPEAKER:

There is no problem really. What we do now is vote your amendment and then we vote the other amendment, in which case you can either leave "forthwith" or if you want to delete what you have already proposed you vote again.

HON J BALDACHINO:

We are not very clear what the Leader of the Opposition is amending.

MR SPEAKER:

I shall read the amendment again. It is in Clause 3 and reads as follows:-

"Calls on Her Majesty's Government to forthwith take such steps as are necessary to enfranchise the territory of Gibraltar in good time for the next election to the European Parliament" and he deletes the word "for" to make it legible.

HON P R CARUANA:

And delete the word "forthwith" as well.

MR SPEAKER:

That is a different matter now. You wish to delete but this was done now because the amendment is already there and when it comes to voting it is up to the House now whether they wish to do away with that word or they do not. Now we vote for the amendment proposed by the Leader of the Opposition.

Question put. Agreed to.

MR SEAKER:

Now we vote for the amendment proposed by the Hon Mr Cumming which is that the word "forthwith" should be deleted.

HON CHIEF MINISTER:

I wish to speak on that amendment because we are going to vote against the deletion of the word "forthwith". I am going to explain why and we have voted in favour of the amendment by the Leader of the Opposition because in fact we think the amendment that he has now put was implicit in the intention of the motion but it is making it explicit. Obviously, if we want them to take the necessary steps forthwith it is in the hope and

expectation that if they start immediately working on it the process will be complete in time for the next election. Let me tell the Opposition Member that at one stage the British Government had contradicted itself on this. There is the letter that the Opposition Member mentioned which His Excellency the Governor wrote, let me say on behalf of the British Government, I have no doubt that it is not something that at a personal level he subscribed to. I have no doubt about that. So the answer he gave was the answer that he was told to give. Let me say that I have no doubt that the position of the Government of Gibraltar being put to the United Kingdom counts with his support as a member of the Government. I can tell the Opposition Members that at one stage Mr Heathcot-Amery said it was too late to do anything in time for these elections but he hoped it would be possible to do something before the next elections and therefore if we are abdicating we may fail to convince him. We may not be able to get it but we have to try. We really have to try and find to defend our basic interests which are under attack. It is not going to create a wonderful new world for Gibraltar because it is not creating it for anybody else in Europe so why should we try but the point is that the absence of Gibraltar from the European elections is another piece of the jigsaw that allows Spain to say the reason why we have got an open frontier is not because Gibraltar is part of a territory of the European Union, it is because we have got a bilateral agreement with Britain in 1984 before we joined the European Union." Therefore, the most dangerous thing that there is about that Brussels agreement which the Opposition Member supports so much is precisely that it enables..... [HON P CUMMING: I object.] Mr Speaker, the Opposition Member raised it before he moved his amendment and I am saying why I do not support his amendment and therefore why I do not support all the explanations he gave before he got to the amendment. The reason why I do not is because we have got to take a tough line in demonstrating our European Union credentials because that is the only way we are going to be able in the judgment of the Government and in the judgement of the GSLP to counteract the arguments of Spain that it is purely a matter of bilateral deals. No, it is not. It is a matter of Community law and we are covered already by EEC Directives. We are entitled to demand from the Member State a responsibility which they should have discharged a long time ago but let me tell the House that this business of it requiring unanimity if they have known this from 1973 they have kept it to themselves for 21 years because they did not mention it in 1994. They are supposed to be the experts responsible for our affairs so therefore we believe the message that is going to find an echo amongst the new MEP's in the House of Commons, in the political Government in the

United Kingdom, not in the civil service, but in the political Government, is the fact that Gibraltar is united in demanding what is its by right, however insignificant it may be. I would urge the hon Member, therefore, to leave the word "forthwith" there, to accept the defeat of his amendment and still to vote in favour and therefore we will certainly vote against the deletion of the word "forthwith".

HON P R CARUANA:

Mr Speaker, I would join the Chief Minister in urging the Hon Mr Cumming to support the motion notwithstanding the defeat of his amendment. Perhaps his concerns would be allayed if we all assured that there is nothing implicitly discourteous in asking somebody to do something forthwith and certainly no discourtesy is intended. I think this is something that we do collectively as a parliament and collectively as a parliament we have neither the desire nor the inclination to be discourteous to the British Government and I think that he is reading too much into the word when he assumed that it imports discourtesy. I do not think it does and certainly speaking for the Opposition I have no difficulty in putting on Hansard that no discourtesy is meant or intended.

HON P CUMMING:

I would like to thank the Leader of the Opposition for being willing to adapt this to meet my request on the grounds of courtesy and I am grateful for that. I have been willing to bend over backwards to support the unanimity. This is not just a question of a word. It is a question of a whole attitude of provocation that goes behind this word. Britain's attitude towards us may leave much to be desired. Nonetheless, Britain is the only friend that we have in the world who may see to helping us in the future. They are not going to mind much having one word but it is the whole attitude that comes behind it of rejection and of provocation and of lack of cooperation to which I will not associate myself.

Question put. On a vote being taken the Hon P Cumming voted in favour. The following hon Members voted against:-

The Hon J L Baldachino
The Hon J Bossano
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon M A Feetham
The Hon L H Francis

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 M Ramagge
The Hon F Vasquez
The Hon J Blackburn Gittings
The Hon B Traynor

The amendment was accordingly defeated.

HON J C PEREZ:

Mr Speaker, it is now no secret that the Government is supporting the motion. I would like to refer, in passing, to the comments made by the Hon Mr Cumming when he said that we are giving false hopes to people and I do not think that when any hon Member of this House presents a motion to this House it is intended in any way to create any sense of hope or anything to the people of Gibraltar. The motion, in fact, identifies the problem. It identified whose responsibility it is for the problem to be tackled; calls on that party for that problem to be tackled and it is aimed at providing an undeniable right which belongs to every citizen of the European Union including the people of Gibraltar. Then those that wish to exercise that right however big or small in impact that exercise of that right might have in a European context will be able to exercise that right freely and democratically. It is one more of those rights that we are being denied and that we should not be denied and we therefore support wholeheartedly the motion. I will not go in to the details of the clauses that the Leader of the Opposition has mentioned in moving the motion. I have them myself lined up but he was very well prepared and I think he has covered the point quite well. The people of Gibraltar are European Union nationals and the territory of Gibraltar is a territory within the European Union to which the provisions of the Treaty of Rome apply. Where the Government think that it is more important than ever to pronounce ourselves on this subject, is that whereas before it had been put to us that the only reason why the exercise of this right was because of the impracticalities of it, because of the problem associated with our size of population or the problems that might be associated with forming part of a constituency, I think we were all shocked to hear on Sky Television the views expressed by Baroness Chalker. She said that Gibraltar's right to vote in the European Parliament did not exist as was the case with other Dependent Territories. Clearly, Clause 227(4) which the hon Member has referred to makes it quite clear that there is a distinction between a territory within the

European Community or within Europe and a territory outside Europe and it is that distinction that makes us full party to the Treaty of Rome and to the rights and obligations arising out of that treaty and does not include nationals of other Dependent Territories. I say this because whereas we might have thought that it was that Baroness Chalker might have been caught on the hop, I have later been able to read transcripts in the House of Lords - let me take the opportunity of thanking wholeheartedly Lord Merrivale for his continued support and his continued attention to the affairs of Gibraltar which he regularly raises in the House of Lords - I was dismayed that the same type of language, although somewhat modified was continued to be used by Baroness Chalker in reply to Lord Merrivale in the House of Lords when she said that it was not a territory included in Annex II of the Act of the European elections which lists the Member States and includes the United Kingdom but has no mention of Gibraltar. I presume that Lady Chalker was thinking that notwithstanding the fact that the United Kingdom is considered by other Member States to include Gibraltar as the Member State, that internally there continues to be the conflict in the British Government's mind and whether they consider us to be a different Member State of the same Member State and I presume that the same argument applies in the question of banking, passporting and in other issues that have arisen subsequent to that. But it is totally inadequate for either Lady Chalker or any other Minister of Her Majesty's Government to suggest in any way that Gibraltar is not part of the territory of the United Kingdom in the European context or part of the territory of the European Union when in fact that is the argument they are using in support of Gibraltar's inclusion in the European Borders Convention. The payment of pensions to former Spanish workers working in Gibraltar arises of the fact that there is a territory in the European Union where they used to work before. The application or non-application of the air liberalisation agreement to Gibraltar arises out of rights, arising out of the territory which were in our view compromised by the Brussels process where, as the Chief Minister has said, the view of the Spanish Government is that there are bilateral negotiations between Britain and Spain and that therefore that is not covered under European law. Although the position of Fernando Moran, the former Spanish Foreign Minister, is somewhat different in that he states that Gibraltar is not territory of the European Union but territory administered by a Member State, it is funny that the Spaniards should argue this when in pursuance of rights which they claim have been denied to them, they consider Gibraltar to be a territory. But when we are trying to apply rights denied to nationals of the European Union in a piece of territory which belongs to the European Union

they change their tune and they claim that Gibraltar is not part of the territory of the European Union. I think it is very dangerous that we should let the matter rest solely with the efforts, which are much appreciated, by the Self-Determination Group and by the European Movement and I therefore think that the necessity for this motion today more than ever is there and we therefore think that the motion deserves our full support.

Mr Speaker, I think there is another issue that the Leader of the Opposition raised when he was making comparisons of Gibraltarian nationals living in Gibraltar and Gibraltarian nationals living in other Member States where he said that it might be argued that those who argue that the territory of Gibraltar is not part of the territory of the European Union might argue that because a Gibraltarian is a national of the United Kingdom for Community purposes he could possibly vote in Spain or in the United Kingdom or a Gibraltarian could vote in a Community country. I give way.

HON P R CARUANA:

What I said is that whatever arguments here are for or against the enfranchisement of the territory, leaving all that to one side, Britain's position at the very best, from her point of view, is that she is disenfranchising 28,000 people which she, by her own admission, has said to the European Union are UK nationals because the 28,000 Gibraltarians that live in Gibraltar cannot vote either in Gibraltar nor in the United Kingdom because they are not residents there. Leaving to one side the territorial argument, we are disenfranchised completely and Britain is therefore denying us as UK nationals, never mind as residents of the territory of Gibraltar, the right to vote.

HON J C PEREZ:

Following on that I think he also said that if therefore a Gibraltarian were to reside in, for example, Holland where he ought to be considered as a UK national for Community purposes, he could possibly be voting for the European Parliament in Holland whereas he is not allowed to vote for the European Parliament in Gibraltar. That in itself, in my view, proves that the territory of Gibraltar is part of the territory of the European Union because the right of abode in The Netherlands or in anywhere else in the Community arises of their reciprocal right of abode that there is in the territory of Gibraltar for nationals of other Community countries to come and reside in Gibraltar. Therefore even that point links the right of voting of the people of Gibraltar to the territory which, for the GSLP certainly, continues to

be inseparable but in fact under the provisions of the Treaty of Rome are not de facto but de jure.

Let me now move on to say that it is not the Government of Gibraltar, it is not the House of Assembly that is making the Government of the United Kingdom responsible for this omission of the universal suffrage that has to include all the nationals of the European Union in the elections to the European Parliament. The matter is not something, like the Hon Mr Cumming has said, that has been raised for the first time by the Self-Determination Group recently, it has been a matter that the members of this House previous to this House have been taking up concurrently and that the Gibraltar Branch of the European Movement has been taking up ever since its inception in Gibraltar and you, Mr Speaker, will know because you were the founder member of the Movement. Let me say that the petitions committee of the European Parliament established by the Commission to look at petitions from European nationals are the two bodies that eventually and after a great battle within the European Movement and in Brussels were able to come out in favour of the enfranchisement of the people of Gibraltar to elections to the European Parliament and put the responsibility fairly and squarely on the door of 10 Downing Street where it still lies in the application of that undeniable right that belongs to the people of Gibraltar as European nationals. I think it is worth mentioning that because it is not a new subject, it is not a motion that has not been seen in this House before and there is a very great opportunity today to be able to ensure that before proportional representation to the European Parliament is applied in the United Kingdom that the United Kingdom that has the ultimate responsibility for making sure that the Gibraltarians have the right to vote should take into account that omission that there is before agreeing to the manner in which the seats should be distributed in respect of proportional representation. Proportional representation is something where the supporters of proportional representation claim is supposed to be able to protect the voice of the minorities in a parliamentary concept and therefore there is no greater reason than that than when the institutions in the United Kingdom look at proportional representation prior to the next elections to the European Parliament that Gibraltar should not be taken into account in that context. We have not to date to say what is the preferred option that each would like to see in whether it would be a direct seat, whether it would be forming part of a constituency because at the end of the day, there are practical realities which we will need to face and what we need to make sure is that this undeniable right that we all have is able to be exercised in the fashion that we can agree to exercise it taking into

account the difficulties that exist. But that that right is there and that we should be allowed to exercise it cannot be denied to us. I therefore feel that I also ought to mention that notwithstanding our ability to be able to vote in the elections to the European Parliament that that will in no way diminish the support of the group of Members of the European Parliament that we today have of the British MEP's because as is the case with the Westminster Parliament they recognise that we have a particular and special problem. They recognise that we have got our own democratic parliamentary institution here and there is a group of Members of Parliament in Westminster supporting us and there is a group of Members of the European Parliament who represent in Gibraltar today that would continue to support us even though we might be represented in some form or fashion in future Parliaments because of the peculiarity of our situation and the recognition that there is a problem for which British parliamentary decisions and British democracy is the protector of. I think we ought to take the opportunity to try and arrange as soon as possible a visit by the new Members of the European Parliament that are in the Gibraltar group that have survived the elections. We regret not having Lord Bethell there any more. I did see that Dr Catherine... I am afraid I cannot remember her name, Mr Speaker, but there is a Conservative MEP from the Gibraltar Group that actually survived and it would be pleasing to see that although the new Labour Members of the European Parliament have already indicated to us that a visit to Gibraltar is now long overdue given that because of the dispute that there was between the Conservative and the Labour group in the Parliament last time they were not endorsed by the House of Assembly as a group. They were making arrangements to come separately because Lord Bethell said that notwithstanding the majority of the MEP's of the Labour group that the majority reflected was the one at Westminster and he was the Leader of the group and they never got to grips with this problem and they never came and we were never able to endorse them but I think that in supporting this motion I am sure that we shall get the full support of the Members of the European Parliament and we ought to try and get them to come here to endorse them as our representative group with a view that they should help us to achieve the objective of this motion both in the context of the British Government, in the context of the Labour Party, in the context of the Conservative Party and in the context of the European Parliament. It is there where I think the European Movement can again play an important role because it is a new Parliament and the motion that was passed by the Petitions Committee under the chairmanship of Monsieur Chantry that was explicit and clearcut in granting those rights to the people of Gibraltar and in placing the

responsibility on the United Kingdom for that to be applied, that in conjunction with the members of the European Parliament and in conjunction with our friends there that we should now perhaps approach the Petitions Committee again and that we should try and put a motion in the European Parliament in support of the resolution of the Petitions Committee which we accepted to do in the two last Parliaments that were unable to achieve. I think we ought to make sure that we do not miss the boat again. We had Members of the European Parliament from Germany, like Monsieur Albert, who was a vice chairman who was a great advocate of the United Kingdom having made a case for us at the time of German unification when there was an increase in seats for the bigger countries that one of those seats should be allocated to Gibraltar. This was Monsieur Albert who was a German Vice President of the Community. He was supported by another Member of the European Parliament from Ireland who visited Gibraltar as well and we were unable to convince our British friends to go in this direction. We now have four years before a decision is taken on the proportional representation in the United Kingdom and I think we ought to use this opportunity but at the end of the day the point that this motion is making and the point that we should make today is that it is an undeniable right and that the exercise of that right is the responsibility of the United Kingdom and how it is going to be applied is a responsibility of them and it is their responsibility to do this and we are calling them to achieve this before the next elections in the European Parliament. I therefore give my wholehearted support to the motion, Mr Speaker.

HON P R CARUANA:

Mr Speaker, listening to the Hon Mr Peter Cumming go on at such length about the Brussels Agreement in connection with a motion of this kind, brought inevitably to my mind the practice of Cypriot delegate at the CPA Conferences to raise the Cypriot question even if the subject matter of the motion was the price of cod in Newfoundland. I think that consensus politics to the extent that consensus politics are possible on particular subjects is going to be made increasingly difficult if the one main issue that divides this House is going to be introduced into subjects which, in principle, are not connected with that Brussels Agreement issue. I am grateful to the Government Members for their forthright and wholehearted support of my motion. One or two comments very briefly, because we have spent some time on this and there is other business to get through. The Hon Mr Cumming spoke of meagre benefits and he said "I would like to vote but it would not make my day". I think, with respect of the Hon Mr Cumming, as the Chief Minister has intimated in

his short intervention, really misses the point that the primary importance of securing the right of Gibraltar to vote does not lie in the benefits that flow from actually casting the vote but rather flow from the status that it achieves for Gibraltar and, more importantly perhaps, of disarming those that use the fact that we cannot vote as further evidence of the fact that we are not in the European Union at all. That is much more important. That is the issue. In the context of the act of voting that is the much more powerful symbolic importance of the voting issue and as to the fact that the European Parliament is powerless, it is not entirely powerless and certainly it will not be powerless for ever and if we do not get into this body now one thing is for sure. When it does get proper legislative parliamentary powers it will then be practically impossible. I think it would be a mistake not to press on with this initiative simply because the club that we are trying to apply to join is not particularly powerful now because with the passage of time powerful it will be. It was only last week that the German Government published a paper of its proposal for the powers that it would like to see vested in the European Parliament and in that respect they are completely opposed to the French view. The Germans believe that the European Parliament should be endowed with very full legislative powers. The French, like the British, believe that it should not and in fact this issue of the powers that the European Parliament should have threatens, in due course to split the Franco/German access which presently exists within the European Union. Sir, I think it will be a mistake for the Hon Mr Cumming to try to detract from the importance of this issue simply because the Parliament that we are seeking to attain voting rights for is not particularly powerful now. The Minister for Government Services made one of the points that I had jotted down in reply that the motion is careful and is premeditatedly careful not to consider the question of how that right should be exercised. The Hon Mr Cumming went on at some length about whether an MEP for Gibraltar would be more or less useful than a representative or a British Parliamentary group. The motion is careful to refer only to the right to vote without getting embroiled into the nitty gritty which is a much more detailed and much more less clear argument about how that right to vote should be exercised, whether we would have a constituency of our own or whether we would be tagged on to a constituency because that is an aspect in which there is scope for differences of opinion and differences of policy from one voted party to another. Just before I resume my seat I would take this last opportunity to urge the Hon Mr Cumming to vote in favour of the motion. The motion is mine. It is written by my pen. It is written in language that I have chosen and I can assure him that no

discourtesy to anybody, certainly not to the British Government, is meant or intended, nor do I think that any such discourtesy is evident from the use of the word "forthwith" which signifies urgency rather than impatience.

Question put. On a vote being taken on the Hon P R Caruana's motion as amended the following hon Members voted in favour:

The Hon J L Baldachino
 The Hon J Bossano
 The Hon Lt-Col E M Britto
 The Hon P R Caruana
 The Hon H Corby
 The Hon M A Feetham
 The Hon L H Francis
 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 M Ramagge
 The Hon F Vasquez
 The Hon Blackburn-Gittings
 The Hon B Traynor

The following hon Member abstained:-

The Hon P Cumming

The following amended motion was accordingly carried:-

"This House:-

1. Notes that Gibraltarians and other EU Nationals resident in Gibraltar continue to be denied the right to vote in Gibraltar at elections to the European Parliament;
2. Asserts Gibraltar's right to be included as EU territory for voting purposes given that Gibraltar forms part of the territory of the European Union;
3. Calls on Her Majesty's Government to forthwith take such steps as are necessary to enfranchise the territory of Gibraltar in good time for the next elections to the European Parliament".

HON E BRITTO:

Mr Speaker, I have the honour to propose the motion standing in my name which reads:

"This House asserts:

1. That Gibraltar's national anthem is, and will continue to be God Save the Queen;
2. That the Gibraltar anthem currently being selected is intended as in the cases of Wales and Scotland only to symbolise the Gibraltarian sense of identity;
3. That the adoption of the Gibraltar anthem in no way detracts from Gibraltar's continued loyalty to the Crown."

Mr Speaker, let me start my contribution by saying quite clearly and categorically, for the avoidance of all possible doubt, that the Gibraltar Social Democrats are in favour of the new anthem that is being sought and is intended to be produced. I say this because of the letter that appeared in the Chronicle yesterday which accuses us of being critical of the choice of an anthem and that is far from the truth. This Party has not been critical of the choice of an anthem, it supports the new anthem subject to the contents of the motion that I am proposing. Indeed, the motion itself is not designed to be controversial and hopefully will not be and I look forward to the Government's contribution hopefully in support. Why indeed have a motion at all was the other question I was asked on this subject and I put it to this House that it would be inconceivable for a matter that can be as far-reaching especially in our circumstances in Gibraltar of changing ones anthem or bringing a new anthem. It would be inconceivable for such a matter not to be discussed publicly in this House of Assembly and in public debate if it was just to be done by a committee or by whatever method is eventually decided. The first line of the motion reads that Gibraltar's national anthem is, and will continue to be, God Save the Queen and that is the thrust of the thinking of Opposition Members that the God Save the Queen is symbolic of our history. It is symbolic of our tradition. It is symbolic of our Britishness and of our loyalty to the Crown and that it is important to send a message not only to the world at large but to Britain and Spain in particular that there is no diluting in that feeling in Gibraltar and that therefore any change to the status of our national anthem by the thought of giving up the God Save the Queen and having something else instead could send that message, could be misunderstood, could be the wrong signals and indeed I understand that there has already been some unfavourable comment in some sectors of the UK press about our tinkering with our anthem. I think that is the most important line of the whole motion that the God Save the Queen continue to be our national anthem. As far as the new anthem itself goes, as I have said, we agree that

there is a need for it in certain circumstances and we support the need for it and I can say from personal experience that recently I heard the Hon Miss Marie Montegriffo at the opening of the Island Games office in a local hotel describing how she had attended I think it was an Island Games and that she had realised that there was a need for the playing of a Gibraltar anthem at those Island Games. In 1978 when I first attended myself the Commonwealth Games it was something that I thought of at the time and I remember discussing in the committee of the Commonwealth Association where I used to devise questions at the time, the need for an anthem to be played at those ceremonies. In fact, it may come as a surprise to some members of the House to learn that as far as the Island Games are concerned where Gibraltar has now participated on four occasions, on each of those occasions, not just at the one attended by the Minister but on each of those occasions at the medal-winning ceremony, because Gibraltarians have won medals at each of those four Games, we have not played the God Save the Queen but we have played not a Gibraltar anthem and I understand not even the same one on each occasion. I have been unable to find out exactly which are the ones that have been played but we have played something that was associated with Gibraltar in the minds of the people organising the team. The precedent is there and I agree wholeheartedly that that is one of those ideal situations where to use the new anthem. That is I think again the crux of the matter. If the first sentence was not important in part of the motion I think the crux of the matter is deciding, and I think it will probably evolve of itself, on what occasions this new anthem that is going to be produced will be used. The Island Games in July next year, and the medal ceremonies are an ideal situation but when I say deciding what occasion they are to be used I put that in the context of the Island Games and I say to myself, the way I see it, in the opening and closing ceremony of the Island Games when the whole thing starts off then that would be the occasion, I think, to play the God Save the Queen and then at the medal-winning ceremonies would be the occasion to play the new anthem to identify Gibraltarians. But I think that is the sort of thing that some thought is to be given and that I think it would be in order for the Government to produce some sort of guidelines for sporting associations and others on what occasions one anthem should be used and on what occasion the national anthem should be used - the God Save the Queen. All I can do is summarise it by saying that the new anthem should be supplementary to the God Save the Queen and not instead of. In conclusion, I hope that the Government will be able to support the motion and that we will be able to have a unanimous vote which will send out a clear signal to those who need to get it in Britain and in Spain that Gibraltar is not in any way

diluting its loyalty to the Crown or its Britishness. I commend the motion to the House.

Question proposed.

HON MISS M I MONTEGRIFFO:

I have listened very carefully to the contribution of the Hon and Gallant Col Britto and may I start by saying that we are dealing here, quite frankly, with a motion that is non-controversial. There is one point however with which we disagree with the Opposition. I will be dealing with that point later on but it will not change the fact that this motion is, as I have just said, a non-controversial one.

I am answering on behalf of the Government in my capacity as Minister for Sport, because it is precisely through sport that the idea for a Gibraltar Anthem was born. Since 1988, when my party was elected into Government, I have been invited by various sporting entities to accompany them throughout Europe. Gibraltar has definitely made a name for itself in the sporting arena, where we are being recognised as a nation in our own right by major international federations. I do not want to go into much detail of our achievements because in my budget speeches I always give this House very comprehensive reports. However, our sporting associations and clubs are always making the very valid point that whenever there is an event where they are representing Gibraltar we fly our flag as Gibraltarians but we have not got a Gibraltar Anthem. A very typical example was experienced precisely a few months ago in Gibraltar during two hockey tournaments. A nations qualifying round and a club qualifying finals. Here, once again, we saw as the motion makes a mention, Scotland and Wales not only flying their own flag but having their own anthems played.

The initiative has therefore been forthcoming from our sports people. However, the Organisers of the competition for a Gibraltar Anthem are also actively assisting the Island Games Association in promoting the Games and they thought it would opportune that by 1995, when we will be hosting the Island Games, there would already be in a place a Gibraltar Anthem. I was asked by the Organisers, as Mayor of Gibraltar, to launch the competition and the sentiments of this motion were not only expressed by the GIB in various interviews but also by myself in my capacity as Mayor of Gibraltar. In fact, during the launching, we were both interviewed by the local media and by visiting UK journalists. The response, I am told by the GIB is that we are receiving very positive and widespread coverage in the United Kingdom.

I take the point that there was an article in the UK press which stated that we were replacing God Save the Queen by our anthem. The GIB quickly reacted to this by writing to the newspaper concerned and their reply was published. There is no doubt that the Gibraltar Anthem will not be replacing God Save the Queen. This point has already been made publicly. Also, that the Gibraltar Anthem is being selected to be used in events where we are there representing Gibraltar and that the Gibraltar Anthem in no way diminishes our loyalty to the Crown. We have proved our loyalty for many years and as recently as the visit made to Gibraltar in October last year by His Royal Highness the Duke of York. I am convinced that the Royal Family can be proud of the respect and affection that we the Gibraltarians hold for the Royal Family.

As I mentioned earlier on, the Government however disagree with the Official Opposition, the GSD, in that they state that it is inconceivable that the question of a Gibraltar Anthem should not be debated in this House. As this House will remember, songs, like for example, the one sang by Dorothy Squires years ago, in the 1960's, did not prompt a debate in this House because it was not intended to replace our National Anthem. It follows that as the competition presently being organised, also does not seek to replace our National Anthem, we do not consider that it should be necessary to debate the matter here. What would definitely be thought by the Government to be inconceivable is that there should not be a debate in this House if the Gibraltar Anthem was meant to replace our National Anthem. Having expressed the sentiments on behalf of the Government and having heard the contribution by the Opposition Member, I think that it would be appropriate that I move an amendment, so that there is absolutely no question as to the intentions for a Gibraltar Anthem as far as the organisers are concerned. They have already publicly stated what those intentions are and therefore because of the views that have been expressed by both sides of the House, I believe that the Opposition will be in a position to support this amendment I therefore beg to move the following amendment to the motion:

The inclusion of the words "that as has already been stated publicly by the organisers" after the words "This House asserts" and the subsequent deletion of the word "that" at the commencement of the three paragraphs.

The motion would therefore read as follows:

"This House asserts, that as has already been stated publicly by the organisers -

1. Gibraltar's National Anthem is and will continue to be God Save the Queen;
2. the Gibraltar Anthem currently being selected is intended, as in the cases of Wales and Scotland, only to symbolise the Gibraltarian sense of identity;
3. the adoption of the Gibraltar Anthem in no way detracts from Gibraltar's continued loyalty to the Crown."

I commend the amendment to the House.

HON P R CARUANA:

Mr Speaker, on the Minister for Sport's amendment, we have no difficulty in accepting it. This motion was not brought because anyone had said anything to the contrary. It was brought because the organisers are not political spokesmen for this community and therefore what we are saying in this motion needs to be said by the highest political authority in this community which is this House, so that if in future anybody either within or without Gibraltar wishes to speculate as to the motives behind this they know it from this House what the motives are. They know from this House what the intentions are and that any motive that they attribute to Gibraltar to the contrary is mischief-making and malicious speculation on their part, when the only people that had said that were the organisers of the Island Games. It was always open for others to say, "They are not in the political front line and it is possible that the politicians were just hiding behind these people to bring this about for them which they would then manipulate for political purposes". That avenue is now shut-off because we who are in this House, the spokesmen for the whole of the community, have now said that that is not. The organisers have already said it and now we are saying it and that covers the whole spectrum of interested parties. As far as the Opposition is concerned we have no difficulty in accepting the Minister's amendment.

HON P CUMMING:

Mr Speaker, I will be supporting this motion but I would just like to make some points of nuance. In the first line the Gibraltar National Anthem is and will continue to be God Save the Queen and I stand by that. There is no problem to me with the God Save the Queen but nonetheless a national anthem is a symbol of sovereignty. It is similar to a flag and if we just transpose for a minute the Gibraltar National Anthem and put the Gibraltar National Flag and say the Gibraltar National Flag is and will continue to be the Union Jack there is a

slight discord is there not? We also have our National Flag which is the red and white and I do not see why we should be so low key about this. Nobody wants to dispose of the National Anthem. Obviously when Prince Andrew came the only appropriate thing was God Save the Queen. In the Governor's Garden Party it tells us when it is time to go home. I feel here a sort of moving forward very delicately, but with a certain diffidence which seems unnecessary to me because a national anthem for Gibraltar is a marvellous idea. I think it is great and we do not need to be diffident about it. Everybody in Gibraltar, I think, is loyal to the Queen and the Royal Family. There is no problem with that. Nonetheless there is also a nationalist movement in Gibraltar, not confined to one party or another. We do aspire to small nationhood of some kind and we do not need to be treating Queen Elizabeth II as though she were Queen Elizabeth I and there are some attempts made occasionally to sort of divorce Her Majesty the Queen from the whole establishment through which she exercises her reign and this, of course, is a nonsense. The Queen reigns through the establishment, through the Parliament.

I support this motion but what I detect here, the diffidence, the fear of going ahead with it surprises me. I would object to one word. I hasten to reassure you Mr Speaker, not sufficient to make an amendment but it says that this National Anthem is only to symbolise the Gibraltarian national sense of identity. The word 'only' goes a little far. It is not 'only', it is to symbolise the real sense of identity. I do not see the need for that word. Thank you. However, I support the motion.

HON MISS M I MONTEGRIFFO:

Mr Speaker, having heard the official Opposition and having heard the Hon Mr Cumming even though I made the point that we disagreed with the Opposition when we were dealing with the motion as far as bringing it to the House once it has been here already debated in the House, I am pleased to see that it is being accepted by the Opposition but having heard the Hon Mr Cumming I am not too sure whether he is accepting the amendment to the motion. He is accepting the motion? Therefore, Mr Speaker, I am pleased that we are all sending an orchestrated major tone to the whole of the world that we do accept the Gibraltar Anthem but that the Gibraltar National Anthem continues to be God Save the Queen. Thank you.

HON E BRITTO:

There is very little in fact that I need to add, Mr Speaker. I thank the Government and the Hon Mr Peter

Cumming for supporting the motion, somewhat diffidently and cautiously I think. I would just take up the points of disagreement made by the Minister about the matter not being one that was necessary or inconceivable that it should not be discussed here. I obviously can agree to disagree but I think the example that she gave us of Dorothy Squires and others after her have written what they have called the Gibraltar song or Gibraltar anthem and the matter was not discussed here, is a different cup of tea to the situation that we have now where we have set out with support from the Government to seek and choose something that will become a Gibraltar Anthem officially whereas the others were written or produced by people of their own initiative and never had the official backing and it is because of that official backing from the Government that we felt it was necessary to debate it here. Be that as it may it has been debated and I think the point has been achieved. That is all I have to say, Mr Speaker.

Question put. The motion, as amended, was carried unanimously.

HON F VASQUEZ:

Mr Speaker, I have the honour to move the motion standing in my name, namely "That this House, mindful of the Government's duties to account to it on matters of public finance, calls on the Government:

1. To explain its knowledge of the establishment and operation of the GDP foundation; and
2. To say whether the GDP foundation is or has ever been directly or indirectly owned or controlled by or on behalf of the Government.

Mr Speaker, the purpose of the motion is tantamount to a call by the Opposition to the Government of the day to either account to the Gibraltarian people and the Gibraltarian taxpayers or to deny to those people for the monies which are held or controlled by them in the GDP foundation. The motion is brought, in exercise of the constitutional role of this House to act as guardian of the public purse. If the Government or any Ministers receive funds through their public office they have a constitutional duty to account for those funds to this House, to account for the provenance of the funds and to account for the expenditure of those funds as monies that they are holding on behalf of the Gibraltarian taxpayer. Those are duties that are set out in the Constitution and the Public Finance Ordinance. Clearly the question of the GDP foundation is a controversial one and I would wish to stress right at the outset of my contribution

today that it is not intended in any way to mention or to allude to the proceedings in Denmark that as far as the Opposition understand are still proceeding and in the course of which mention has been made of the existence of these funds. Obviously, the criminal prosecution currently taking place in Denmark is sub judice. It is something that cannot be discussed in this House, and it should not be discussed in this House. The fact is, contrary to the assertion that the Chief Minister has made on various occasions when questions have been asked in relation to this subject, the criminal proceedings taking part in Denmark are of no direct relevance to the questions which have been put to the Government and to the motion which is before the House today. The fact is that the Opposition at this stage and in bringing this motion is not concerned as to the exact provenance of the funds. We know and on the record there have been suggestions in the Danish proceedings as to the circumstances in which these funds were paid to the Gibraltar Government through the GDP foundation and we also have on the record statements made by the Chief Minister that those funds represented a legitimate investment by Baltica, the Danish company, and of the other companies for the marketing of Gibraltar in support of their investment. These are matters that may or may not come to light in the course of the proceedings currently taking place in Denmark. What the Opposition calls upon the Government at this stage and now to explain to the people of Gibraltar is whether if at any time the Government or Ministers directly or indirectly have at any time controlled the funds held in the GDP foundation in Liechtenstein which apparently operates, according to press reports, and according to statements made in the Danish proceedings, controls bank accounts in Switzerland. The motion is stated in such a way as to call for the explanation of the Government's knowledge of the fund. If the Government are in a position to say that they have absolutely no knowledge of this fund then that is the end of the matter and that is the end of the story and that can later rest, the continuing crescendo cascade of press reports and allegations that have been made publicly about impropriety on the part of Ministers of the Government of Gibraltar in relation to that fund. If, however, the Government of Gibraltar are not in a position to say that they have no knowledge of the fund and is not in a position to deny that it does not or has never controlled the funds held by the GDP foundation, then clearly the Government are under an obligation to explain to this House and to the Gibraltarian people and the Gibraltar taxpayers, in whose trust they are holding these funds, the provenance of these funds and why they have chosen to arrange the holding of these monies in this apparently peculiar fashion instead of paying these funds, if they exist, into the Consolidated Fund or into

a properly established Special Fund under Gibraltar law. Clearly, the whole question of the GDP foundation raises awkward questions of the dividing line between private and public monies and one for which the Government owe it a duty to the people to account because surely if the Government of Gibraltar have been aware of this GDP foundation and have been controlling funds held by the GDP foundation, I assume it is not going to be their argument that these are funds that are somehow held privately by Ministers because obviously then it opens up an entirely different line of questions and controversy. It must be assumed, therefore, that if individuals in or associated with the Government of Gibraltar are somehow controlling these funds through the GDP foundation they are doing so in a public capacity and to that extent they owe a legal and constitutional duty to account to this House and to the Gibraltar people for those funds. Since October 1992, regular reports have been appearing in the press, in the Danish press, in the British press and not surprisingly repeated parrot fashion in the Spanish press, I do not know about any other press but those are the ones certainly to which the Opposition have become aware, of irregular payments allegedly made by Baltica in relation to the Baltica investment in Gibraltar. These allegations, it would appear, have come to light almost coincidentally in the course of the Danish investigation into the alleged frauds appertaining to the Baltica transactions. Again I hasten to add, it would certainly appear that the allegation of monies paid in to the GDP foundation in Liechtenstein is not central, is not germane to the matters at hand in the Danish prosecution. The Danish prosecutor said he is not particularly concerned with monies that were allegedly transferred. Again I call upon the Government to deny that no transfer was made but certainly the prosecutor has said that the question of the transfer of these funds to the Liechtenstein fund is something which is not central to the Danish prosecution and certainly we have had the Danish prosecutor, the Foreign and Commonwealth Office, the Governor and the Government repeatedly stressing that no Minister is under investigation. Of course, no Minister is under investigation and we have absolutely no difficulty in endorsing that. It is unthinkable that in a prosecution brought in Denmark against four Danish nationals employees of the companies in question who are charged with embezzling or stealing funds from those companies that of course it is unthinkable that a Minister could even be held to account for alleged theft from the companies in question. Of course nobody in Gibraltar has stolen or embezzled any money from Baltica or JPC or any other Danish company. That has never been suggested. I think it has never been suggested in the press. It has never been suggested by the Opposition and obviously this House and the

Gibraltarians are not concerned with the matter of the prosecution of four ex employees of Baltica in Denmark. But the fact remains that in the course of that investigation and in the course of that prosecution in so far as we got to the prosecution so far, allegations have been made that funds were transferred from Baltica into these funds in Liechtenstein, in Switzerland. The allegation appears to be that funds were paid into the GDP foundation which is a Liechtenstein entity which in its own right controls bank accounts in Switzerland. These disclosures have come to light as a result of the Danish investigation and these must be a matter of concern to this House and to the people of Gibraltar now irrespective of the state of those Danish proceedings. I think it is incumbent upon me to set out very clearly the allegations that have been made in respect of which we in the Opposition are looking for explanations or denials indeed from Ministers. The allegations appear to be these. The Observer newspaper in December of last year made the specific allegation that two payments of £400,000 each were made by the Baltica Finance Ltd and by JPC into this Liechtenstein entity called the GDP foundation which allegedly is controlled by or on behalf of Ministers of the Government of Gibraltar. That is the allegation. We have press reports to the effect that £800,000 has gone from these companies into these funds - secret funds allegedly in the newspaper articles - controlled by people in Gibraltar or people acting as agents on behalf of the Government of Gibraltar. This then when the case opened in Denmark in March, appears to have been confirmed by the prosecutor in the opening of the case where he also alluded in the course of the presentation of the case - and I repeat it is not a matter which is particularly central to the accusations made against the four accused in Denmark - to the fact that the sum of £800,000 was transferred to funds controlled by the Government of Gibraltar. Later on, although the figures did not appear to tally, a witness has gone on to say that contributions were made by either Baltica or JPC into a travel fund established in Liechtenstein controlled by Ministers. These are the matters which we are looking for explanations or denials in relation to regardless of the criminal proceedings still proceeding in Denmark.

Having outlined very briefly the nature of what we are contending with, of the allegations that are on the record, either in the press or in the context of the Danish proceedings, it falls upon me at least to go through the record of Government's reaction to those reports. The first point I would like to make is that to date there has never been, no doubt I will be corrected if I am wrong, but really I say it as a plea for those to be done now. There has not been to date an outright

denial by or on behalf of the Government of Gibraltar of the existence of a fund controlled by the Government or controlled on behalf of the Government in this secret fund in Liechtenstein. At no time have the Government stood up and said "Look, there are no funds. We are not aware and we do not control any funds situated anywhere in the world in relation to these allegations being made emanating from the Baltica proceedings". That is exactly what the Opposition are seeking now. Either an outright, unequivocal and unambiguous denial of the existence of that fund or an account of it or an explanation of what on earth Ministers are doing controlling funds in Liechtenstein. So far, and I have said I was going through a narrative of three public reactions on the part of Government to the allegations that have been made. The first were two statements contained in the actual Observer report itself in December of last year and whether these can be properly attributed or not one does not know but within the story carried by the Observer were these two observations. Firstly, that the Government were denying any impropriety in relation to the funds and secondly the Government's insistence - and this is not first hand, this is second hand from the Observer report and which I am putting it to the Government and no doubt the Chief Minister will want to comment - but the Observer reported that a Government spokesman had insisted that GDP monies were paid for legitimate purposes after legal advice and used in Gibraltar's interests. In other words there seems to be a confirmation of the existence of this GDP fund that the Government had somehow received these legitimately and that they had been spent in support or defence of Gibraltar's interests. Those are the two comments contained in the original Observer story. If I can comment on those the first of course as regards the denial of any improper activity. Surely, it is not for the Government to say, "We have not acted improperly" it is for the Government to explain how it has behaved and it is then for this House and for the people of Gibraltar to decide whether there has been any impropriety. In other words for Government to say "We have not acted improperly" it not to say that the GDP foundation does not exist. It might be that in their eyes the establishment of this foundation, with allegedly £800,000 in it, secretly controlled by Ministers in Liechtenstein is a perfectly legitimate exercise of Government office. I see wry smiles from the other side. I genuinely hope that the Chief Minister is going to stand up and is going to say "I had nothing to do with this. I do not know about the foundation. I have never controlled it. I never ordered its establishment" I hope that is the case but to date we have not heard that. We have merely had a denial of improper activity and a rather strange assertion if, and again I qualify it as reported in the

Observer, that the monies were paid for legitimate purposes after legal advice which would seem to suggest that Government had taken legal advice as to the establishment of this GDP foundation which again raises the question that the Government must now explain to this House the nature of that advice and the structure and the reasoning behind this absolutely, in the Opposition's view, unbelievable motion that the Government feels justified in holding funds secretly in other jurisdictions on behalf of the taxpayer. That is the first comment within actually the Observer article of December. Following that article, on 7 December, the Government issued another, in the Opposition's view, equally ambiguous statement which reads as follows: "As far as Government is aware Danish investors contributed towards the creation of a private fund to promote Gibraltar's interests abroad in support of their investments in Gibraltar. To the Government's knowledge any use of monies in this fund have been exclusively for the purposes for which they are provided." Again, in the Opposition's view, an entirely obfuscatory statement that does not clarify anything. It simply begs more questions than it answers and I can set out the questions that it begs now. From the very first line of the quotation "As far as the Government is aware....." how much is the Government aware? Are the Government aware of the existence of the fund or not? Are they, were they or have they ever been aware of the existence of the fund? What is the nature of this type of fund?

What on earth is Baltica doing opening up a private fund controlled by Ministers if indeed that is the case? Where is this private fund? Government have never said "Yes, we have told the Accountant-General about it. We are holding an account. We control this GDP foundation in Liechtenstein and we are signatories of an account in Switzerland". Is that the case or is it not? Why is it a private fund at all and who controls it? That is the central question. That has simply never been answered. Who established this fund and who controls it? Have the Government at any time had any say in the expenditure of this money and have the Government at any time had any say in the creation of the entity that controls the money in question? The next question - why, if Baltica indeed has decided to invest in the promotion of Gibraltar, is Baltica paying that money into a private fund in Liechtenstein run by company operators there who refuse to divulge the beneficial ownership of these funds? It does not square up. If someone is setting up a legitimate promotion fund as many companies do in support of their investment, why do they simply pay it to the Government of Gibraltar and say "Here you go, start

spending it"? Why was not the money held in Gibraltar like all other Government funds except for funds held by the Crown Agents. How much money is there and how much money is being spent? These are all questions that are begged by that very ambiguous statement put out by the Government of Gibraltar on 7 December and possibly most importantly is the Accountant-General aware, have disclosures been made of the existence of these funds controlled by the Gibraltar Government? The last and continuing the narrative of Government's public reaction to the disclosures and allegations that have been made, there was an interview on GBC television of the Chief Minister the following day on the 8th December when really he talked along the same lines. I am quoting verbatim, he said: As far as we are aware....." again obviously qualified always "because we are working on the basis of limited knowledge since it is not our money, it is money as far as we can tell that forms part of what was announced by Baltica that they were putting aside of £1.5 million for marketing of Gibraltar". Again this qualification, we know this about it but we are not very sure about it and we think it comes from Baltica and words along those lines. Analysing those words of the Chief Minister, what really was the Chief Minister saying in that interview? If indeed it is Baltica's money and some Baltica employees, for reasons best known to themselves, have decided to open a foundation in Liechtenstein, controlled secretly by themselves presumably for the marketing of Gibraltar, of what possible concern is it to the Gibraltar Government? Why did not the Chief Minister in that interview say "I know nothing about this. I have been told that some Baltica employees opened an account. We do not control it. We know nothing about it. We have no say in the forming of it, certainly nobody controls it to our order, this is nothing to do with us". But there was not that unequivocal denial. There was the rather equivocal statement that the money is not ours. Yes, of course, money can legally not be in one's name. In fact the money is the GDP foundation's. The question is who controls it? That is the question that has not been answered and again I reiterate that I raise this motion in the hope that Government are in a position to leap to their feet and say once and for all, definitely, "We know nothing about this. This is not anything to do with us. We do not control any funds". Of course if the Government of Gibraltar are in a position to do that I hope that very quickly and not the heels of such an unequivocal denial the Government will immediately demand an apology from The Observer, the Mail on Sunday and other Spanish newspapers that have made unwarranted aspersions against the Government of Gibraltar. Demand an immediate retraction and apology and, if necessary, sue them for damages for libel because very clearly, hand

in hand with those allegations of the secret funds, not veiled but quite blatant allegations that Ministers are acting improperly, that these were somehow backhanders. That is the allegations which is controlled in the press reports which I am referring to. The Government to date have singularly failed to either admit their knowledge of the fund or to deny any knowledge or involvement in that fund and it is that failure to confront the issue which in the view of the Opposition is providing fertile ground for the continuing campaign of allegations and innuendos that have been brought in the international press against Gibraltar. This Opposition has time and again offered to the Government the opportunity to defend itself and come to the defence of Gibraltar's reputation. To begin with the very first thing we did was to offer to the Government our unequivocal support for an action against any newspapers making any defamatory comments against the Government of Gibraltar and going as far as to offer public funds in support and in funding of that necessary action, in defence of Gibraltar's international reputation. That offer was not taken up by Government. Then we suggested, let us for goodness sake establish a public enquiry. Let us get something going to at least have an independent arbiter investigate and satisfy all concerned that there has been no impropriety on the part of any elected officer or civil servant in Gibraltar. Again, no action was taken on that front and finally we have gone as far as to simply put questions to the Government in this House, questions which Government have simply flatly refused to reply to on the grounds that these matters are related to the Baltica proceedings and this is sub judice. For reasons that I have explained, and which I hope the Chief Minister and the Government Members will accept, that simply does not ring true any more. There is nothing emanating from the Danish proceedings that at this stage and now prevents the Government of Gibraltar from commenting and defending itself against the allegations that have been made against them and simply it is difficult to comprehend and justify Government's lack of resolve and lack of action in refuting those allegations. If I can comment it will be seen that we offered the Government, the offer of allowing them to use public funds in as much as the Opposition is in a position to allow anything, but certainly offering the political support for the use of public funds in bringing defamation proceedings. They refuse to do that and I have to concede that although I personally think that was a misjudgement we can see a certain logic in this. One can accept that Government might take the view that they are not in the business of embroiling themselves in litigation against newspapers, litigation which, more often than not, both parties end up losing. Without accepting the correctness of that choice one can accept that there is a certain logic to

it. Then we have the fact that at one stage it appeared that the Government was actively helping the Danish prosecutor and that in the words of the Danish prosecutor that cooperation was withdrawn immediately before the hearing and in fact he went on the record in Gibraltar, when interviewed here when he came for the Commission Rogatoire saying that he was actually baffled by it. He could not understand why the Government of Gibraltar had, at a drop of a hat, instantly as it were, dropped.... I see that the Minister for Trade and Industry is..... I do not know what he is trying to say but the fact is that that is on the record, that the prosecutor went on the record as saying that he was baffled by the withdrawal of support of the Gibraltar Government. If in the course of those proceedings Government could have sent, if not a Minister, certainly a civil servant, to explain the involvement, the role of the Government of Gibraltar and its servants, in matters relating to Baltica, I cannot understand and the Opposition cannot understand why that opportunity was not taken. Instead of which we are left with this cloud of uncertainty, this cloud of whirl, of innuendoes. The Government of Gibraltar are not going to help us, they are not coming clean on this. As I have said in relation to the taking up of libel proceedings, in my view that is a misjudgement on the part of Government but again one can endow it with a certain amount of logic; one can accept that at least there is a logical line in saying, "No, the Government of Gibraltar, a Government of a sovereign state is not going to allow itself to be drawn in as a witness to be embroiled in cross examination etc in a criminal proceedings in which it is not directly connected". I can see there is a certain logic to that. A logic that I certainly would not have militated. In my view should not have militated against sending the witnesses but which one can accept. Where there is no logic at all is that when the Opposition brings questions in this House inviting the Government to explain themselves, to say what the position is, to deny the existence or knowledge of the fund, the Government point blank refuses to answer the question. That is a situation, which in the view of the Opposition defies logic and it is a situation which must be corrected now through the medium of this motion. The question of whether or not the Government or any officer of the Government operates or has ever operated or been involved in a fund in Leichtenstein has no bearing to the case in Denmark. The Chief Minister has said that he thinks it is money paid legitimately by Baltica. The Chief Minister surely by now has had enough time to research it and look into it. Surely he is in a position now to say what the situation is, whether he knows where the money came from, whether he knows that in fact it was controlled by entities from Gibraltar. The continued speculation as to this impropriety on the part of the

Government is doing enormous damage to the reputation of this community. It has certainly, in the view of the Opposition, wrecked the reputation of Gibraltar in Denmark. When I speak to people of any business in Denmark they all confirm it that in Danish eyes this place is just a banana republic beyond repair and this is not somewhere where you really want to do business anymore. That, I am afraid, is the report that I have received personally from Denmark. It is certainly affecting the reputation of Gibraltar in other jurisdictions at a time when we are doing everything that we can to market ourselves as a responsible, sophisticated, reputable centre and it is a situation which is not helping that marketing campaign one iota and possibly equally importantly it is in the view of the Opposition and from this perspective, from what we can see going on between this Government and the Government of the United Kingdom it is souring relations with Britain. It is undermining the trust that exists between those two Governments and I have to say that we have taken the view that a great deal, a large proportion of the difficulties that we have had over the last few months in establishing and seeking recognition of Gibraltar's ability to market and control its own finance services within the European Union, the resistance that we have been getting from Britain comes at least to some extent from a large.....

MR SPEAKER:

We must be careful, we cannot revive an issue that has already been debated in this House.

HON F VASQUEZ:

I accept that ruling. I am just making a point, going over what we in the Opposition consider to be the repercussions of these unanswered questions. But above all and I think most importantly it is inconceivable that at a time of great economic difficulty in Gibraltar, at a time when Gibraltarians and Gibraltarian businesses are being squeezed until the pips squeak in Government's obsession with balancing the books that there should be suggestions that Government are operating secret funds for which they are not accounting to the Gibraltar taxpayer. If we are all pulling in our belts we must all pull in our belts together. The time has come. The Chief Minister repeatedly says that he decries the continuing campaign of aspersions and innuendos. Let us call it a day now. Let us finish it now. Let us fight an unequivocal unambiguous denial of the existence of this fund and that will be the end of the story, or knowledge of the existence of this fund. For those reasons, Mr Speaker, I commend my motion to the House.

Question proposed.

HON P CUMMING:

Mr Speaker, on this motion I stand fully with the GSD in seeking from Government an explanation about the GDP foundation and I seem to remember that when we first heard of the GDP foundation on GBC the Chief Minister said that it was a fund that Baltica had openly established. The words I remember were ".....to promote Gibraltar abroad politically". The Chief Minister will correct me if I report those words wrongly but that is what I remember "to promote Gibraltar abroad politically" and now it seems to me that very often I agree with the Government in so many of its objectives and have to disagree completely with the method of achieving those objectives. It seems to me a brilliant idea that large companies wanting to settle in Gibraltar can be persuaded legitimately by the Government to make a big contribution to a fund to be used to help Gibraltar one way or another. I think that is brilliant. If it can be used to promote Gibraltar politically so much the better, I am greatly in favour. The question is how it is done and first of all it seems to me that it needs to be done openly. I ask myself, how is Gibraltar being promoted politically abroad at the moment? It can only be through the GIB offices or through the Amigos and it occurs to me to ask whether this fund is being used to fund the expenses of the Amigos and I have no objection if it is because I think it is a very good idea to handle lobbying in Spain and in Britain also. In fact, I think it would be brilliant if we had a Ministry of Propaganda as they have in the Vatican, or a private company if it is not possible to do through the Constitution but openly with its objectives to do lobbying for Gibraltar, the icing on the cake of course, not the cake itself. Nonetheless something very useful. The question is, let us do it openly and if we are going to subsidise people to go to the GIB offices or to lobby in Spain I believe that preference should be given to Gibraltarians and I join with the Hon Mr Vasquez in calling upon the Government to explain the ins and outs of this fund.

HON CHIEF MINISTER:

I imagine, Mr Speaker, that the mover of the motion knew the answer before he put the motion. I cannot for the life of me think why he should expect to get a different answer today from what he got to Questions 107 and 108 on the 26th April. The position has not changed since the 26th of April. The view of the Government has not changed. The policy has not changed and this motion will not change it. He has certainly not adduced one single

new argument today that he has not put before or some other of his colleagues have put before and which we have not accepted. Let me say, of course, that if there was money that belonged to the Government then it could only be recorded in the Government accounts and we have made clear that there is no money belonging to the Government outside Gibraltar other than the money reflected in the published audited accounts which are invested by the Crown Agents in London. We have also made clear that when they arrived in Gibraltar the company announced their intention of putting aside certain funds for marketing and promotion; their money. What is obvious is what is being questioned in the allegations being made is whether the decisions that were being taken by the people that were then employed were decisions that they had the authority to take and whether the money that allegedly is been put somewhere or has not been put somewhere, has gone where it is alleged to have gone and therefore I cannot tell the House whether all the allegations that are or are not being made are true or not true. It is up to the people making the allegations to produce the evidence and up to the prosecution on the basis of that evidence to get a conviction and until that process is finished we will not make any comments because certainly we are not going to make a comment under the privilege of the House which we are not prepared to say outside the House having made clear to the Danish prosecution from the day that they first approached us, not in the last minute, from the first day that they could have access to whatever it was that they wanted to have access in terms of records in order to verify things. But what we have had is a situation where, which I have explained already publicly, if somebody claims that there was a meeting on a certain date with a certain person in the administration and in the course of the investigation somebody has come and said, "Is there a diary kept to be able to confirm whether such a meeting took place?" what then appears is that the diary of people is being looked at. That is the explanation I gave before. Now what do we do sue somebody for libel for saying that the diary has been looked at? Of course the diaries are being looked at but the diaries are being looked at not because they want to know where the diary was, because they want to know whether in fact there is any kind of confirmation of something that somebody may have said presumably in his defence. Having provided the cooperation that was being asked what we experienced was that for our pains we were having the finger pointed at us and we made clear that we were prepared to go so far and no further. The prosecutor was quoted as saying he was bewildered. I asked the Attorney-General to write to the prosecutor to find out why he was bewildered since he had known from day one what the position was. He came back and said, "Because of my unsatisfactory knowledge of English the

word 'bewildered' probably was something that I did not say or that I got misquoted on". Whether he said it or he did not say it, I do not know but what I know is that when he was asked, "Explain to us why you are bewildered" he denied that he was bewildered so I do not have to explain to the Opposition Member why the Danish prosecutor was bewildered because the Danish prosecutor denies that he was bewildered. When I asked in this House I said I was bewildered by his bewilderment. That was the answer I gave the Opposition Member when he raised that on the 26th of April. Of course, if money that was due to the Government of Gibraltar has been paid anywhere other than in Gibraltar for the account of the Government of Gibraltar then it would have to be accounted for under the obligations laid down in the Public Finance (Control and Audit) Ordinance and it would be an offence not to have done so. It is not a question of explaining it. The law is clear. If somebody says "Here is £0.5 million" they can only pay the Government of Gibraltar £0.5 million for something which they are contracted to pay. If they say, "We want to make a donation to the Government of Gibraltar, to the Consolidated Fund" then it goes into the Consolidated Fund and if it goes anywhere else then that is an offence and if anybody is saying that that is what happened then what they need to do is go and see the police about it or go and see the Attorney-General and say "I accuse so and so" that is what they need to do. But we are not going to stand in the House as if we were in the dock when nobody has got the guts to put us in the dock other than by inference because, of course, it is all very well for an hon Member to say the way to do it is to say "I know nothing about it". It is quite obvious that what we said from the beginning is what we do not know is to what extent the allegations that are being made have got foundation or have not got foundation and to what extent people making their defence be making other allegations because the people that are currently under suspicion are the people that were Baltica's people in Gibraltar. As far as we were concerned the people that were here were Baltica and when we said, "Baltica announced this and Baltica did that" the fact is that if the guy that was doing it was saying one thing to us and something else to somebody in Copenhagen, we do not know that. [Interruption] But if I said to the Opposition Member, as far as I know he will say "Ah yes, but what is that you do not know?". I do not know what I do not know. How do I know what I do not know, if I knew it I would know it? Irrespective of the explanation that I give I cannot give him a full explanation because I am not aware of what the nature of the..... I am aware of one thing, that there was a sequence of events and that the sequence of events was triggered by problems that Baltica had in Denmark, not in Gibraltar and therefore if the Danes

think we are a banana republic then they are a pineapple republic because it is all being done by Danes. It is all being done against Danes. It is all being done with the connivance of Danes and the losses that the company sustained in Gibraltar are miniscule compared to the money that disappeared in Denmark involving the same companies with the same names. The whole pack of cards collapsed apparently from the limited information that we have gathered from other people when JPC got into trouble in construction projects in Denmark and when people then started going in to look at the assets they obviously started questioning decisions and when they started questioning decisions they started coming up against barriers. This has been going on and hopefully it will come to a conclusion before too long. Certainly, if the Opposition Member believes that the position of the British Government in relation to the new Commissioner in Gibraltar having to be answerable to the Foreign Secretary has something to do with this then that is a new story because the last time it was the web of Maxwellian companies that was influencing the British Government. Now that they are more or less coming round to the idea that there is a web of Maxwellian companies after all then, then there may be a complicated structure which, as I have already explained, is going to be rationalised, that we are not here with accountants and lawyers investigating us because we are under suspicion of corruption which has not been claimed by the Danes, has not been claimed by the Mail on Sunday, has been claimed by the Opposition Member in a television interview which he says he knows. Well, he must know because somebody has told him. Why does he not tell me who has told him so that I can know, so that I can go for that person? Whoever has told him why does not he tell me, who has told him these stories and name names? Then we will go for whoever is at the bottom of it because as far as we are concerned we are absolutely clear on one thing. There is nothing that we have to answer for which is not, as far as we are concerned, in keeping with our responsibilities to this House in accounting for public finance. The existence of money for marketing initiated by Baltica was publicly announced and whether the way it was done was the way it should have been done and whether the money that was put there was the money that other people were billed for, I can tell the House I do not know but I imagine that that will come out in the course of the case that is taking place in Denmark. Then either the people will be found innocent of having embezzled any money or they will be found guilty. We are certainly not going to make any statements as has been made clear in answer to the previous question in anything related to the investigation or to the case until it is all over, irrespective of how many articles are written, irrespective of how many motions are brought and

irrespective of how many questions are asked. It will not change our position one iota. If he wants a clearer answer than that then I do not know what I need to tell him. I have told him ad nauseum and I will keep on telling him however many times he wants to raise the matter in the House.

I propose therefore to move an amendment to the motion deleting all the words after the word "finance" in the second line thereof and substituting the following:

1. Notes that as already stated the only funds that belong to the Government which are held outside Gibraltar are those invested by the Crown Agents and shown in the Government's audited accounts;
2. Notes that the Government has already stated its position in answer to Questions No. 107 and No. 108 of 1994 on the 25th of April 1994;
3. Is satisfied that the provisions of the Public Finance (Control and Audit) Ordinance and the Constitution are being fully complied with as regards the duty of the Government to answer to this House in matters of public finance."

I commend the amendment to the House.

MR SPEAKER:

The motion is not modifying the original motion, it is changed completely. It is in fact, as I see it, the answer that the motion is seeking. Whether the Opposition accept that as an answer or not is a different matter but if you read that amendment, as I see it, it is the answer to the motion. The Opposition might agree with it. The Opposition might not agree with it but what I am trying to say is we are now going to discuss the two together as if they were two different versions. Members can speak on both motions then when we take the vote it will be as follows: The mover of the amendment will reply to his amendment and after that the mover of the motion will reply generally and finally we will take the vote on both motions, taking the motion of the amendment first and if that is passed obviously the other one is automatically defeated. But what I am trying to say is whoever speaks now can only speak once, except the mover of the original motion and the mover of the amendment.

HON P R CARUANA:

Mr Speaker, the Opposition's motion, on which I now speak, given that I am free to speak on the Opposition's motion on which I have not yet spoken, calls for

accountability. The Chief Minister's answer really is limited to the question of accountability for money. The motion calls firstly for accountability for information. The first question, and unless this question is answered no other answer makes sense. The first question is this: did the Government or any Minister in the Government know of the existence of the GDP Foundation before they read about it in the Observer? Will the Government say whether they knew that there was such a beast as the GDP Foundation before they read about it in the Observer newspaper? It is all very well for the Chief Minister to say "I am not answering any questions. I am not going to make statements that are on trial in the Baltica fraud trial in Denmark", but the fact of the matter is that regardless of criminality whether in or out of Gibraltar which does not concern me in my political capacity, I am entitled to political accountability from the Government Members. It is pursuant to that political accountability I am entitled to know from them what information they knew and when they acquired that information. For the Chief Minister to say "I will not tell you when I discovered the existence of the GDP Foundation, because four men are on trial for fraud in Denmark" is a red herring. It is a non sequitor. The fact of the matter is that the Chief Minister is accountable to this House for information that he has acquired in his public capacity as Chief Minister, as leader of the executive in this House. If the Chief Minister were to say, "Look, I did not know when the GDP Foundation.....". We are not talking about funds here. The motion goes to the GDP Foundation and asks to explain its knowledge of the establishment and operation of the GDP Foundation. The Chief Minister could put an end to all of this by simply saying, "Look, I did not know when the GDP foundation was established. We had no part in the establishment of the fund. We did not control the money that went in. We never controlled the money once it went in and therefore the answer to the motion is that the Government's knowledge of the establishment and operation of the GDP foundation is that it has none and I discovered the existence of the GDP foundation when in great horror I read Mr Gillard's article in the Observer". To the extent that the Government are unwilling to say that they discovered this name, GDP Foundation, in the press they are in effect confirming that they knew about it before and then it is politically incumbent. I do not care whether or not there has been a criminal offence committed. I do not care whether the money that went into the GDP foundation was the result of corruption or whether it was a contribution from the Girl Guides Association, it really does not matter because what this motion is concerned with is in the process of accountability firstly for information and depending what the answer to that is, financial accountability as to

what the Government knew and when about the establishment of this fund. This GDP Foundation therefore say if they can that the GDP Foundation is something that the Government discovered after the events and recently and in connection with the kerfuffle and that it was not privy to the information at the time of its establishment in connection with its establishment; that it has nothing to do with its establishment and that the monies that went in - it does not matter how they went in whether it was legal or illegal, who put it there or who did not - whoever put the money there, whosever money it was, whether they did it legally or illegally, "No Minister of my Government has any input, any control, any say, into how that money was spent or not spent". In other words, that the Government have nothing to do with this and no knowledge of this. It seems to me that that is what (1) of the motion calls for. (2) of the motion will clearly be no, if the answer to (1) is no. This is why I say that the motion calls first for political accountability of information. Accountability for which the Opposition and this House will be entitled even if, which I am prepared to assume for the purposes of this motion, only the provenance of those funds were perfectly legitimate and no one has got anything to answer for in or outside of Denmark for the creation and establishment of a fund but even in those circumstances it is the political right of this House to ask the Government politically and not criminally, certainly not criminally, what information they had and when in connection with the affair. As I interpret the Chief Minister's answer, I interpret it to mean that he is not even prepared to say that. In other words, he is not prepared even to say, "In respect of the GDP Foundation I say that the Government had nothing to do with its establishment, no knowledge of its establishment" which is what the motion calls for. To explain its knowledge. Therefore, the Chief Minister may wish to rely on supposed motives of not wishing to impair a fair trial in Denmark but what he is in effect doing is confirming that the Government had this information at some earlier stage and are simply not willing now to explain that knowledge. "Here is £0.5 million to the Consolidated Fund." The Chief Minister and I it is now clear from our various debates on the Estimates that we have different concepts of what is public monies. When the Chief Minister speaks of public monies he means public funds. He immediately remits to the Constitution and to the Public Finance Ordinance and says "public monies are monies in the Consolidated Fund". To me, that is not the definition politically, not legally, the political definition of funds for which the Government should be accounted. It is interesting that the Chief Minister was careful even in this motion, he said, "If somebody says here is £0.5 million for the Consolidated Fund" why did the Chief Minister say, "Here is £0.5

million for the Consolidated Fund"? He relies even for this motion he relies on the technical definition of what is public funds and I say to him no. I say to him that he is politically accountable in this House for his involvement, if any. This is why the question asked whether he has had any involvement. He is politically accountable to this House for his knowledge or involvement of a fund set up by somebody else by way of a gift from somebody else, owned by somebody else but which directly or indirectly Government Members make the political decision as to how these resources should be deployed in protection and defence of Gibraltar interests. That has got nothing whatsoever to do with the definition of public funds. It has got nothing to do with the Consolidated Fund. It has nothing to do with the Accountant-General. When the Chief Minister in his little example of the £0.5 million donation to the Government goes out of his way to say, "Gift for the Consolidated Fund", and when he says that there is no breach of accounting for public finance I have no doubt that he is correct and that he is being entirely truthful because, of course, what he is doing is applying that answer to his interpretation of public finance and public funds which is a legal interpretation and a correct perhaps he thinks legal interpretation. He knows that I disagree with him but in any case whoever the two of us is right on that there is this political accountability for funds that the Government directly or indirectly control. The Government are willing to say neither whether they knew of the existence of the fund or indeed whether it has had any input or not in the control. It seems to me that the Government could not be prejudicing anybody in Denmark if the Government simply answered no to both these questions. "No, we did not have anything to do with the creation of the Fund" and "No Minister of this Government has had any connection with its expenditure or with its deployment". How could that possibly prejudice any fraud in Denmark? I will communicate to the Government Members whether the Opposition will vote for or against the motion through some other spokesman given that I cannot speak again, after I have had an opportunity to read the Chief Minister's amendment.

Mr Speaker, for a variety of reasons but mainly Mr Speaker's ruling that in his opinion that he considers that the Government's amendment is an answer to the Hon Mr Vasquez's motion which is manifestly not and that our support to the amendment could not be interpreted as being supportive of Mr Speaker's interpretation that it is an answer to our motion which plainly it is not, we cannot support the Chief Minister's amendment.

HON CHIEF MINISTER:

I am not adding anything else to the amendment.

MR SPEAKER:

If the mover of the original motion has anything to say he can close up.

HON F VASQUEZ:

Should we not be taking the vote on the amendment first, before I wind up my motion?

MR SPEAKER:

No, because there will not be a motion left, once the amendment is passed.

HON P R CARUANA:

I think Mr Speaker must explain it again because I think Mr Speaker has clearly said and certainly we admit to understanding the Members may not admit to understand but I am certain it was their understanding of what you said is that this is not really an amendment to our motion. It is so radically different to our motion that in effect there are two motions side by side. I think that is what Mr Speaker said but that means that we have got to vote twice; there are two motions.

MR SPEAKER:

It is purely on procedure. It is an amendment but it would be very cumbersome to try and discuss one with all sorts of amendments that you have put on the other one.

HON P R CARUANA:

Not to discuss. We accept that we are discussing them side by side, but when it comes to voting we have got to vote twice.

MR SPEAKER:

No.

HON P R CARUANA:

As we did at the last meeting of the House.

MR SPEAKER:

No, it is wrong because.....

HON P R CARUANA:

But this is what we did the last time.

MR SPEAKER:

Maybe but it is still wrong.

HON P R CARUANA:

But if there are two motions we have got to vote twice.

MR SPEAKER:

Two mistakes do not make one right. If the motion which is an amendment is passed and is completely contradictory to the other one then there is no motion left and therefore there is nothing to vote on and what I am trying to do is allow the mover of the motion to be able to put his case now so that when we do vote on the amendment hon Members realise what they are voting for. Otherwise it is a waste of time.

HON P R CARUANA:

But, Mr Speaker, with the greatest of respects your rulings are inconsistent because if Mr Speaker has ruled that the amendment destroys the original motion and there is only one motion there is no motion for the Hon Mr Vasquez to reply to because the motion that we are now discussing is the Chief Minister's and he must have the last word. Mr Speaker, as I understand it, if you have ruled as I believe that you have already ruled, that we have two motions here and that we are putting them side by side to discuss them as one the fact that you have ruled that there are two motions, the fact that we discuss them side by side cannot detract from the fact that if there are two motions there must be two votes as we did last.

MR SPEAKER:

What I am trying to do in fact is to give a better chance to the mover of the motion. There is one motion and an amendment to that motion but because of the nature of the amendment for the sake of procedure it is better to treat it as two motions but there is still only one motion. Finally, if I were to put the vote now and did not give a chance to the mover of the original motion and the motion is defeated whatever he says is of no consequence because the motion has already been defeated so what I am trying to do if the Leader of the Opposition will listen to me is to give a better chance to the mover of the motion to

be able to convince the House to vote in his favour because once we take the vote on the amendment then he can talk till kingdom come, his motion has been defeated. Now if he has got the eloquence to convince the Government there is still chance of him getting.....

HON P R CARUANA:

I have no doubt that he has the eloquence what he has not got is the audience to be receptive to his eloquence. I will swap two votes for the right to reply.

MR SPEAKER:

You cannot because that is the procedure that will be used in this House in future because I think it is a fairer one.

HON P R CARUANA:

I rise because of the last three words that Mr Speaker has uttered as if to imply that this is going to be the procedure from now on.

MR SPEAKER:

Yes.

HON P R CARUANA:

The fact of the matter is firstly that at the last meeting, Mr Speaker, had a different view and secondly that what Mr Speaker's last four words mean is that whenever the Opposition bring a motion if the Government change everything after the words "This House....." there is no longer an opportunity to vote on the Opposition's motion.

MR SPEAKER:

Let us bring it to practical reality. The Leader of the Opposition has said that he could not convince him because the audience would not change their minds. What I am doing is therefore is give an opportunity to the Opposition in this case to be able to put his point of view before we take the vote because after we take the vote whatever he says is of no consequence and I realise that I made a mistake in that respect last time and I am giving a better opportunity now to the mover of the original motion which I did not last time.

HON F VASQUEZ:

Mr Speaker, I am grateful for the opportunity. I am not sure that my leader agrees with the ruling but I am grateful for the opportunity of winding up my motion. Really I just want to say these words, it is a matter of regret and concern that the Chief Minister was not able to accept what was intended as a dolly lobbed at him so that he could smash it out of this cricket ground. He has been given a perfect opportunity to set right the Government's position in relation to the GDP foundation. All he had to say was stand up in this House and say that Government had no knowledge of it, that he had not been involved in setting it up, that none of his Ministers had been involved in the handling of funds; in exchange for which we have had another convoluted reiteration of really quite unconvincing reasons for his failure to accept the opportunity of doing just that. Mr Speaker, we are left on the record with unreplied allegations of funds in Liechtenstein controlled by Ministers, of slash funds, of travel funds of kickbacks which have not been replied to in this House. It is a matter of regret. The Opposition feels it has given this Government the opportunity to reply roundly to those allegations and it is a matter of regret to the Opposition that it was not able to accept the motion and provide the very simple explanation that was offered to them which could have dealt these allegations a final death blow once and for all.

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 following amended motion was accordingly carried:-

"This House, mindful of the Government's duty to account to it on matters of public finance:-

- (1) Notes that as already stated the only funds that belong to the Government which are held outside Gibraltar are those invested by the Crown Agents and shown in the Government's Audited Accounts;
- (2) Notes that the Government has already stated its position, in answer to Question Nos. 107 and 108 of 1994 on 26th April 1994;
- (3) Is satisfied that the provisions of the Public Finance (Control and Audit) Ordinance and the Constitution are being fully complied with as regards the duty of the Government to answer to this House in matters of public finance".

ADJOURNMENT

HON CHIEF MINISTER:

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

Question put. Agreed to.

The adjournment of the House sine die was taken at 7.50 pm on Tuesday 28th June, 1994.