

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

24TH APRIL, 1995
(adj Friday 26th May 1995)
(Budget)
VOL I

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Ninth Meeting of the First Session of the Seventh House of Assembly held in the House of Assembly Chamber on Monday 24th April, 1995, at 2.30 p.m.

PRESENT:

Mr Speaker (In the Chair)
(The Hon Col R 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 Employment and Training
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, Culture and Youth Affairs
The Hon Miss K Dawson - 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 M Ramagge

The Hon P Cumming

ABSENT:

The Hon L H Francis

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

OATH OF ALLEGIANCE

Miss K Dawson, Attorney-General took the Oath of Allegiance.

COMMUNICATIONS FROM THE CHAIR:

1.

MR SPEAKER:

It is a pleasure to welcome the recently-appointed Attorney-General, the hon and learned Katherine Dawson, to the House as an ex-officio Member. Miss Dawson, who served some years in the Attorney-General's Chambers as Crown Counsel is well aware that it is no easy job but she must also know that it is a key position that carries tremendous responsibilities in the administration of justice and very particularly in the legislature which is both interesting and fulfilling. Miss Dawson is making history today by becoming the first woman to occupy the Attorney-General's seat in this House and no doubt she will get special support from her gender. I think I should also welcome the Gentleman Usher who is I think well known for being a sprinter so I had to tell him today to go slow because I could not keep up with him. I do wish him the same success as his predecessor who scored 100 and not out.

CONFIRMATION OF MINUTES:

The minutes of the Meeting held on 9th January 1995, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

THE HON THE FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to lay on the table the following documents:

(1) Draft Estimates of Revenue and Expenditure 1995/96;

(2) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary, Nos. 8/11 of 1994/95.

Ordered to lie.

The House recessed at 5.10 p.m.

The House resumed at 5.30 p.m.

Answers to questions continued.

2.

BILLS

FIRST AND SECOND READINGS

THE PROTECTION OF TRADING INTERESTS ORDINANCE 1995

HON M A FEETHAM:

I have the honour to move that a Bill for an Ordinance to provide protection from requirements, prohibitions and judgements imposed or given under the laws of countries outside Gibraltar and affecting the trading or other interests of persons in Gibraltar be read a first time.

Question put. Agreed to.

SECOND READING

HON M A FEETHAM:

I have the honour to move that the Bill be now read a second time.

Mr Speaker, the need to introduce legislation of the kind contained in this Bill was first identified when the drafting of the Civil Jurisdiction and Judgements Ordinance, 1993 was undertaken. It was necessary to consider what statutory provisions in Gibraltar might be affected by the jurisdiction and judgements legislation and what further legislation might be necessary to complement that Ordinance. The object of introducing legislative provisions relating to the reciprocal enforcements or judgements etc. is not only to ensure that the interests of Gibraltar and the Gibraltarians are protected but also to make sure that we have in Gibraltar the legislative infrastructure to make Gibraltar an attractive place to do business. The ability to enforce the judgements of our courts in other jurisdictions and the capacity to enforce overseas judgements here is part and parcel of that. Such provisions are of course important for the social policy reasons as well as commercial reasons. For example, the wife and dependent child abandoned by a husband need to be ensured that the maintenance order made in their favour in a Magistrates' Court in Gibraltar can be enforced in whichever country the husband is now living. The community in Gibraltar needs to know that the enforcement can take place otherwise the wife and children are likely to become a charge on the public purse but if we are to have this opportunity for reciprocal enforcement of judgements between jurisdictions and the increased recognition of such jurisdictions, particularly in the area of commercial interests, we must also take account of the

need to preclude inappropriate extra territorial enforcement which may be harmful to the trading interests of Gibraltar or which may infringe the jurisdiction of the Gibraltar Courts or prejudice the sovereignty of the Crown in the right of the Government of Gibraltar. This Bill makes provision for such protection of Gibraltar's interests in the way that comparable legislation does in the UK in respect of UK interests and as similar legislation to be found in most other common law jurisdictions do. This reference to other common law jurisdictions gives me an opportunity to explain the timing of this Bill. The Bill has been ready to bring to the House since the middle of last year. It was at that time that the subject of extensive consultation with the Foreign and Commonwealth Office legal advisers which built in a delay to this Bill. That apart, the Bill was not published at the time because no progress was being made on the arrangement for bringing into effect the Civil Jurisdictions and Judgement Ordinance 1993 and having waited since 1980 (a date which I will explain in a moment) there seemed little need for a rush. However, two things have occurred to make bringing the Bill to this House timely.

The first is that weary of the delay in relation to the Jurisdictions and Judgement Ordinance we have decided to bring that Ordinance into effect except in relation to the UK. I should tell the House that to assist the UK to cooperate in the arrangements to bring that Ordinance into effect we have even arranged to have drafted the Order in Council necessary to make the arrangements for operating the Ordinance and therefore the Conventions to which it gives effect between here and the UK but even that assistance has not produced any response from the United Kingdom. We are told that there is no hidden agenda on the part of the UK. Their lawyers merely lack the time to deal with the matter as it may be. The second participating event was the need to put in place new reciprocal arrangements with Australia reflecting the fact that there are now new Australian courts to replace the old arrangements that had the time of the Court of appeal the Judicial Committee of the Privy Council. The changes in the Australian court system are more far-reaching than just the final court of appeal and that is the most significant change. The Australian Government requested new reciprocal enforcement arrangements with the UK and these were agreed. They have now been given effect to in the United Kingdom. The agreement is of effect in respect of all dependent territories etc and Australia has itself enacted the necessary new legislation having effect in all Australian states as well as in the federal courts.

It was identified by the draftsman in several territories that to give proper effect to the agreement that the UK had made with the Australian legislative provision of the kind contained in this Bill was required. The new Judgement (Reciprocal Enforcement) Order has been drafted to take account of the changes in the arrangement with Australia but must wait the passage of this Bill before it can be brought into effect. I refer again to the date 1980. The United Kingdom Act replacing earlier and by then outdated provisions was enacted in 1980. That Act contained a provision which permitted it to be extended by Order in Council to dependent territories etc. At the time when provisions similar to those contained in the Civil Jurisdictions and Judgement Ordinance 1993 was introduced in Jersey, Guernsey and the Isle of Man, the Protection of Trading Interests Act 1980, as amended by the Order in Council, to apply to that jurisdiction was extended to the territory.

It is not the policy of this Government to acquire its legislation by Order in Council and I am therefore bringing this Bill to the House. The drafting of the Bill is modelled on the adaptations made to the UK Act when it has been extended to, for example, the Isle of Man and, as I have said, the Bill has been the subject of consultation with Foreign Office Legal Advisers. I recognise that as reading matter it is not the most exciting but it is an essential part of a modern commercial legislative framework and goes to show to the world that Gibraltar has the tools available to permit sophisticated business to be done in Gibraltar and to properly protect the interests of Gibraltar both in terms of trade and in respect of the interests of the Crown. I commend the Bill to the House.

Debate invited on general principles and merits of the Bill.

HON P R CARUANA:

Mr Speaker, I have not yet had an opportunity in the minimum number of days notice that I have had of this Bill, to consider its technical implications. I do of course recognise that there is a Protection of Trading Interests Act in the United Kingdom and that it deals with the same subject matter. I will deal with any issues that arise at the Committee Stage from any differences that might exist between this Bill and the equivalent provision in the United Kingdom. But at this stage, Mr Speaker, I would just like to make one or two observations. The Minister has, I think, given us to understand, at least in reading between the lines, that this piece of legislation has been the subject matter of

some dispute and/or controversy between the Government of Gibraltar and the Foreign and Commonwealth Office. He has given me at least to understand that this is not a piece of legislation that the British Government want to see us legislate. That in itself is not, as far as I am concerned, a good reason for not legislating it. On the other hand, it would be informative if the Minister could advise the House of the objections or the difficulty or the reluctance or the reasons for any of those things that has been proffered to them by the Foreign and Commonwealth Office in causing all that delay. It seems to me that he must explain to the House what the technical issues are that have caused the British Government not to want us to implement this. I ask this and I couple it with the observation that I made a few days ago that this is probably the first Bill that we see coming before this House in which the commencement date is to be established by the Government as opposed to be the Governor. The Minister will be hard put to answer any of my observations if he does not listen to what I am saying. If he is not interested then I will not make the observations. This, as I said, is the first Bill in which the commencement date is to be chosen by the Government and not by the Governor and I ask him to clarify whether that change in mechanism for establishing the commencement date by the Government as opposed to by the Governor reflects or accommodates this disagreement of the Bill that he has alluded to or at least he has insinuated between the Gibraltar Government and the British Government. I would also be grateful to him if he could clarify for my benefit what exactly he understands by the term "sovereignty of the Crown in right of Her Majesty's Government in Gibraltar". That is a phrase that I have come across frequently in Commonwealth legislation. In other words, that is the formula used, for example, in Australia and Canada and it has been the practice there since they enjoyed dominion status because there was a recognition that the status of the Crown was different in relation to the government in those of Her realms which were no longer dependent territories. And I ask the Minister just to explain for my benefit what exactly his Government understanding of that phrase is and whether we should all be celebrating that the Government have unilaterally declared and implemented my party's policy which is for a form of dominion status. Does this denounce UDS, unilateral declaration of dominion status? Mr Speaker, as I said, with Mr Speaker's latitude I reserve the right to raise at Committee Stage particular provisions of this Bill which may, in fact, relate to the general principles.

HON CHIEF MINISTER:

I can explain one of the elements to which the Opposition Member has drawn attention and it will be a feature of all the legislation we bring to the House from now on which is this question of the date on which the legislation is brought in. It arises out of the fact that the newly arrived Deputy Governor seems to think, notwithstanding the fact that we have given him detailed correspondence going back to 1969, that the date on which legislation is brought in after it has been passed by the House and obtained the Royal Assent, is a matter which he, as Deputy Governor, can implement on instructions from the Foreign Office. We have pointed out that this is not the case and that the Governor there is carrying out a role which is a defined domestic matter and therefore it is the Governor on the advice of the Government or on the advice of the Chief Minister or on the advice of the Council of Ministers. An issue which, as far as I am concerned, had been clearly established beyond doubt in 1972 when I was elected, never mind in 1995. Therefore for the avoidance of doubt with this Bill and with every future Bill, my Government has taken the policy decision that it should read Government and not Governor although we have no doubt that in every previous Bill before this House since it was constituted in 1969, in the opening paragraph "Governor" has always meant "Government". That is, it is the Government of the day that decides whether it is appropriate to bring in a provision at a particular time because the reason why this thing is there, frankly, and not have a date of saying, "When it gets the assent the whole Bill comes in" is because in a lot of legislation once the legislation is on the statute book certain resources have to be provided or certain things have to happen and therefore we bring in a particular section when we are ready to carry out what the law says it carries out. How it can be a defined domestic matter which we decide to do or not do by a majority vote in the House and then argue having decided that, that the date on which it stands to happen is going to be decided by the Deputy Governor on the instructions of some mandarin in the Foreign Office is beyond me? So that is the explanation for that element. Clearly the British Government when the time comes will have to decide whether they allow the Bill to become law or not with that proviso in it.

HON P R CARUANA:

If the Chief Minister will give way before he sits down. Not right now but before he sits down.

HON CHIEF MINISTER:

Before I sit down, fair enough. That is independent of any controversy that they may have about any particular technical element or not in the Bill. As far as the Government are concerned, clearly the position of the Government indeed in all the Bills before the House is that we are taking the First and Second Readings, there will be a sufficiently long gap between now and the Committee Stage for any points Opposition Members want to put to us. It is better if there are points that they want to put to us that they put it before we are actually in Committee because then if we can meet what they want it would be easier to do so than having to take a decision here particularly if at the same time we have a situation where people in London want us to take account of views that they may put because it puts us in a very difficult situation if somebody in London suggests to change something and then, say, somebody in the Opposition suggests we change something in the opposite way, well what are we supposed to do, suspend proceedings and go back to London? I can tell the hon Member that although they keep on telling us from some of the non-Foreign Office technical departments that there are things that they want more time to study to give us a reply on, it is also the case that some of these Bills are part of the list that the Foreign Office wanted us to have done by the 15 January. So we have got one arm of the British Government under penalty of excommunication telling me that I must get on with the job and have it completed by January and then other arms of the British Government flapping that they have not had enough time to consider all the technical consequences and they want more time to put things to us. We have got a job to do. As far as we are concerned we are ready with this, there will be time between now and the adjourned meeting for the British Government, the Foreign Office or whoever, to put any things that they think ought to be changed technically but at the end of the day the political responsibility for legislating in Gibraltar lies with the elected Government and nobody else. [HON P R CARUANA: And the Opposition.] Yes, but it is the majority in the House that decides and whereas Opposition Members have got the right to vote against or try to persuade us to amend so as to get their vote, in the Foreign Office they have no vote.

HON P R CARUANA:

Mr Speaker, I have a degree of sympathy to this extent with the position of the Foreign Office and that is that they have found that like me they do not get too much time to read the Bills. I suppose they get them five

days before like I do, or do they get them earlier? But certainly it seems to me that ... [HON CHIEF MINISTER: I am giving way and I will deal with that point.] there is no constitutional double whammy on this business of input by the British Government. As far as I am aware the constitutional mechanism available to the Foreign and Commonwealth Office to disapprove legislation that this House legislates is to withhold the assent. [HON CHIEF MINISTER: Absolutely.] To exercise the Secretary of State's constitutional power to withhold the assent and it seems to me that if the British Government disapprove of a piece of legislation that this House legislates they must do that, not that I am encouraging them to do so or would I necessarily approve if they did, but that is the constitutional mechanism that exists and it seems to me illegitimate to wish to establish a second and less high profile way of achieving the same result which is to frustrate the legislative desire of the elected legislative chamber to seek to bring about the same result by trying to manipulate the commencement date which is a housekeeping provision and not a constitutional provision of approving of the subject matter of the legislation. So certainly and without knowledge of what the British Governments objections might be to this particular piece of legislation which the Chief Minister has not addressed, I would certainly agree as a matter of this House's prerogative that it is entitled to have its legislation implemented by the Government - and I will say something about the particular use of the word the "Government" in a moment - but certainly once a Bill has received the assent thereafter there is no constitutional framework which allows the British Government to decide whether it ought to become law or not. At that point it is a matter for the executive arm to decide as a matter of administrative arrangement when a Bill that has been approved ... So to that extent the Chief Minister has my support for that position. However, equally in this situation as with the situation which often arises as to who may make regulations under Ordinances, I have a difficulty which I think I have articulated before as to whether it is actually in the context of our constitution, proper and legitimate to make a reference to the Government. I question whether in our constitutional framework there is such a thing, there is such a legal entity, we all know what the Government means in political terms but whether there is such a legal entity capable of exercising this sort of power or the power to make regulations as the Government, as opposed to the Minister with responsibility for this or the Minister with responsibility for that or, indeed, the Chief Minister. Certainly that is the concern that I have. It is more a legalistic concern than a political concern but certainly I think it is only a matter of time before somebody who

is aggrieved or falls victim to a piece of legislation especially a piece of legislation that applies sanctions against him, especially or a criminal variety, to argue that in fact the law has not been validly introduced for this reason. It is something that ought to be looked at in terms of the efficacy of the legislation produced and of subsidiary legislation and it is a matter upon which the Government may wish to take their own private legal advice to see whether there is any merit in the very legalistic point that I raise in the context of the wording of our constitution which does not define the term "Government" although there are references to the Government in the constitution.

HON CHIEF MINISTER:

Mr Speaker, since I have given way to the hon Member let me say that I am aware of the technical point that he is making. I am advised that in fact the use of the word "Government" has been in our legislation since 1969 when legislation was altered on the amalgamation of the City Council and the Government and the word "Government" to do certain things was introduced where previously it had said "City Council" and that therefore it can be demonstrated that that has been the case from the beginning of the Constitution and, indeed, an Order-in-Council was made in 1969 making reference to things being transferred to the Government for the purpose of making regulations and rules and so forth and that is the origin of the argument but I am not really qualified to say how strong an argument it would be if it were challenged on technical grounds in court. I take the point and I will ask for the matter to be reviewed in the light of the comments by the Opposition Member because, frankly, independent of whether the content of a rule may be something that they support or not, the point is that if we make a rule or we make a regulation then we want the rule to stand. There is no point in making things if it can all be thrown out of the window on a technicality. On the first point, the position is as I have described it which has been totally reflected in the remarks of the Opposition Member in the sense that our view is as his is that the Constitution already gives half a dozen different things which will allow legislation not to be finalised and be brought into effect all of which would need to be exhausted before one got to the stage of deciding when was the appointed day and if they had said yes all along and then in the eleventh hour they changed their mind, they cannot then come back and say, "But we can also control the appointed day because the Governor is able to take a decision on instructions from the Foreign Office". And although we talk about the British Government I think this is a lot more serious than that because this is not really the British Government. The

politician in London does not even know that this goes on and if he knows it is only because he is told, "This is very important and we have got to do something about it and we have got to put a stop to it" for some reason or other and he just says, "OK, go ahead" and gives the political green light. But we are talking about a situation where we are elected by the people, we have got a certain role to play and because somebody misunderstands something, I mean frankly part of the dispute we had earlier on in the year about bringing in this appointed day legislation was the situation where having brought legislation to the House, the Opposition Member will remember that he moved an amendment in a list of things and I think it was paragraph (d) that he asked to be repealed and we accepted his amendment. That meant that paragraphs (e) and (f) now became paragraphs (d) and (e). People in London, having given the assent and everything else, apparently had not cottoned on to the amendment that we had accepted in the House and they were still working on the text of the unamended Bill and then they said they objected to us bringing in one section which it so happened was the wrong section. They objected to another section except that they had the lettering wrong. This is no way to run a business. The very least we expect from the people we are dealing is a level of professionalism in the job that they do when they propose to overrule people who have been elected and even that was missing. As a result of that situation, frankly, we have been toing and froing on the argument as to whether we are right or they are right and therefore we have taken a policy decision as the Government so that there can be no doubt as to what it means. We are going to say what it means in the law from now on and we will see where that takes us.

Mover invited to reply.

HON M A FEETHAM:

Mr Speaker, most of the points have been taken up by the Chief Minister. I have nothing further to add.

Question put.

The House voted.

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 C Perez

The Hon J E Pilcher
The Hon P Dean
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 M Ramagge
The Hon F Vasquez

The Hon P Cumming

The following Member was absent from the Chamber:

The Hon J L Moss

The Bill was read a second time.

HON M A FEETHAM:

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

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn to Friday 26th May at 10.30 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 10.40 p.m. on Monday 24th April 1995.

FRIDAY 26TH MAY 1995

The House resumed at 10.50 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 Employment and
Training
The Hon M A Feetham - Minister for Trade and Industry
The Hon J C Perez - Minister for Government Services
The Hon R Mor - Minister for Social Services
The Hon J L Moss - Minister for Education, Culture and
Youth Affairs
The Hon Miss K Dawson - 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 M Ramagge
The Hon P Cumming

ABSENT:

The Hon Miss M I Montegriffo - Minister for Medical
Services and Sport
The Hon L H Francis

IN ATTENDANCE:

D Figueras Esq, RD* - Clerk to the Assembly

MR SPEAKER:

First of all I would like to tell the House that GBC would like to make a programme on the role of the Speaker and they have asked me whether they could come in with a camera, without sound, whilst the House is in session to take a few shots of the Speaker in action. If the House has no objection I will tell them that they can do so. Any objection? Thank you very much, I will them accordingly.

I have been given notice by the Leader of the Opposition The Hon Mr Peter Caruana that he would like to raise the matter of public urgent importance on the adjournment and I will ask him to seek leave of the House.

HON P R CARUANA:

Mr Speaker, I seek leave to move the adjournment of the Assembly to discuss a matter of urgent public importance, namely, the anxiety and concern that there is amongst citizens in Gibraltar arising from the apparent serious constitutional position that has arisen in relation to matters of legislation and implementation of EU Directives with the United Kingdom and also the question of the non-publication of the Government of the list of measures attached to a letter addressed by the Foreign Secretary to the Chief Minister in September of last year.

MR SPEAKER:

I will briefly give an idea of what the procedure is. The procedure is that first of all the Speaker must consider whether it is a definite matter of urgent public importance. If he agrees to that then it is up to the House to give its consent or if the House does not give its consent then if two Members stand up then he can proceed. If he does proceed and the matter is agreed to then it will be taken five and a half hours from now or at the end of the meeting, whichever comes first. I know this is a difficult situation for me in which I have had to try and find a formula out of the Standing Orders as they are because they are a little bit confusing and even contradictory. By using the principle that freedom of speech is primary in the procedure of the House, I have done my best to find a ruling that I think will stand the test of time and that is that I will allow any Member who has a matter of urgent public importance to raise it by five o'clock the previous day, as one of the rules says it can be done, although it is contradicted by another rule which says that he cannot. So I am taking the more beneficial one towards freedom of speech and therefore if a Member applies to seek leave to raise the matter of urgent public importance on the adjournment if he gives notice by five o'clock on the previous day that will be allowed. Of course, after that it has got to go through the test of the Speaker agreeing that it is a matter of urgent public importance, the House giving its consent or two Members rising and supporting the proposal. So that is the ruling that I have passed.

HON CHIEF MINISTER:

Mr Speaker, the proviso in the Standing Orders that is being used has never been used before in the House since 1972 and to my knowledge since the House first met in 1969 and therefore, as you say, the ruling that you make will be the ruling by which the House in future will be guided. It seems to me that the ability of Members to raise matters on the adjournment is capable of being dealt with in two ways - either it is raised under the Standing Order which requires notice to be given before 5pm on the previous day, in which case there is a limit to two Members being able to do that, or alternately, at the end of Question Time under Standing Order 79 notice of a motion for the adjournment under Standing Order 24A can be given and Standing Order 24A makes clear that it shall be at the time prescribed in Standing Order 7: Order of Business. I say this because I want it on the record that we believe that technically it is not possible to do this without the Government agreeing by the use of its majority to use Standing Order 7(3) to take a specific particular business out of order but since we would not want to use our majority to prevent the Opposition Member raising the matter which he wants to raise so that he can get an answer and so the people outside can get an answer, we are not going to seek to block his move.

HON P R CARUANA:

Mr Speaker, and similarly just for the record, although I welcome the fact that the Government Members do not wish to prevent debate on the issue and therefore say that they will cooperate, for the record, I do not accept the Chief Minister's analysis and interpretation to the effect that it could not happen without his permission. This has happened because, Mr Speaker, before the Chief Minister made these statements, had already expressed the view that in his view it should happen and therefore it happens because the Chair has interpreted two conflicting Standing Orders in favour of it happening and not because the Chief Minister has been magnanimous enough to permit it.

HON CHIEF MINISTER:

I do not want to have a debate about the magnanimity or otherwise of my position but of course if we want to test it then we can put it to the vote and defeat it and then we can have a constitutional crisis with the Leader of the Opposition instead of with Mr Douglas Hurd.

MR SPEAKER:

The last thing we want is another constitutional crisis. We have enough with one. I think that I should express a little bit more my thinking. Again, I think it would be improper in the practice that is being adopted where meetings take place at intervals perhaps of a few weeks where a matter in between can arise in which the Opposition has not had an opportunity of taking it under Standing Order 7 and it is that one other reason why I thought that in every situation this to me seemed fairer and certainly on the side of the freedom of speech of the House. But of course, let me say this, the House has the last word and if they wish to change the ruling or they wish to change a Standing Order to meet whatever situation they think they should, they are liberty to do so.

I will carry on with the procedure which means now that the motion proposed by the Leader of the Opposition will stand five and a half hours. It is 11 o'clock. Half past four this afternoon when we shall interrupt the business for 40 minutes only and if the mover of the motion wants to get a reply from the Government then he has got to allow time to them because the discussion cannot go on for more than 40 minutes. Let me tell the House as well that this is not a substantive motion, it need not be formulated and it is more a glorified question in which the matter is discussed and the person moving the motion can make long statements which obviously he would not be able to do so at Question Time. We carry on now with the order of the day.

BILLS

FIRST AND SECOND READINGS

THE APPROPRIATION (1995/96) ORDINANCE 1995

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending the 31st day of March 1996 be read a first time.

Question put. Agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. As there are no structural changes to the Estimates before the House, Mr Speaker, I do not propose

to make any further comments and I will give way to the Chief Minister.

MR SPEAKER:

I think hon Members might wish to remove their jackets because of the present heat and if any hon Member wishes to do so he can do that.

HON CHIEF MINISTER:

Mr Speaker, in accordance with the practice established since 1988, I will be speaking to the Appropriation Bill of Government expenditure and at the same time giving the analysis of the Government as to the background of the position as regards the economy generally, at present and over the forthcoming 12 months.

Last year, Mr Speaker, when I introduced the Estimates of Expenditure to the House, I explained that we were in a more difficult position than normally in making the Estimates because in fact we had just concluded an agreement with the Moroccan workforce in the Government, totalling some 250 which was due to come into effect in May right at the beginning of the financial year and indeed since the accounts are prepared at the level of departmental requirements as far back as the beginning of January, those accounts did not reflect the anticipated changes either on the revenue or on the expenditure side. I therefore warned the House a year ago that the final predicted outcome of the financial year, 1994/95, was likely to be less close to the original estimates than had been the case in the past. Hon Members will see that that is indeed reflected in the results for the Consolidated Fund that we have brought to this House. I would like therefore to explain for the benefit of hon Members where the differences have come in and to what extent the results that we have got for this year are better or worse than what we hoped they would be.

Part of the cost of the package offered to the Moroccans fell in the year 1993/94 because payments were actually made before the 31st of March and that, therefore, was reflected in the final Consolidated Fund balance of 1994. It is mainly for this reason that recurrent expenditure in this year is less than we thought it would be because part of it came in the previous year. That is to say, part of the cost happened in March 1994 as opposed to April 1994 and therefore the cost appeared in the 1993/94 final accounts rather than in the anticipated outturn for 1994/95 which we have before us. That explains, Mr Speaker, why if we compare the position now with the position we expected a year ago, we see that there is a lower Consolidated Fund balance on the 1st of April 1994

but a higher Consolidated Fund balance on the 1st of April 1995. We also did not find a drop in the yield from PAYE that we thought would happen, partly because the effect of the loss of income from the Moroccan workforce was not as severe as we thought it might be and partly because we have been more successful in the last 12 months in reducing the level of arrears of PAYE which is where the main emphasis has continued in the collection of arrears. I have to say that the collection of arrears of PAYE now I think compares reasonably favourably with what one would expect is the most that can be achieved on the basis that what ought to happen in law which is 100 per cent payment on the 15th of each month is not attainable. We are now in a situation where we have got something of the order of £3.4 million of PAYE arrears outstanding which is something like nine per cent but this includes the accumulated areas in respect of companies that are in the process of having been put into liquidation by their creditors and some of which will be written off. These accumulated arrears go back as far as 1986/87. In respect of the current year we are now collecting something like 97 per cent of PAYE. I think it is difficult to collect 100 per cent on time. So of something like £1.8 million of the £3.4 million would be in respect of the last 12 months and the rest would be in respect of the previous year. The figure has in fact been coming down by something like £100,000 a month. That is to say, if we take the figure from one year to the next in terms of arrears of PAYE then we will see that there has been a decline of something like £100,000 a month as between one year and another mainly in the last 15 months which is really when we have been more successful in catching up. Of course, one of the things that I have mentioned in the past is that part of the problem of the increase in arrears that has taken place in the last few years has been reflected in the greater difficulty in collecting PAYE from the private sector than from the MOD and the public sector where the collection happens virtually automatically. Within the Government clearly it is purely a book-keeping exercise; there is no actual movement of money. Within the MOD they have generally been payers on the dot within the month after the PAYE has been deducted from their employees. Something like the replacement of direct labour in DOE by a contractor necessarily means that the level of arrears goes up even though it is a one-off thing. For example, PSA was paying something like £600,000 a year in PAYE at the time of the closure. If we have a situation where the contractor takes over from PSA and it simply brings in a delay of a couple of months, well, a delay of a couple of months means that there is now a running backlog of £100,000 which we will never catch up, which was never there when DOE was collecting and paying. The Estimates that we have got

for PAYE hon Members will see that we have moved from £41.5 million to £41 million this year and last year we put £40 million because we thought there would be a drop which did not materialise for the reasons that I have explained but it does of course indicate clearly that what we have got is a situation where the overall level of earnings in the economy on which PAYE is charged is running flat. There is in fact no growth. That has, of course, to be put into the contexts of the fact that flat is a considerable improvement on the catastrophic prognostications that it would be collapsing. It is not collapsing and it is not collapsing notwithstanding MOD cuts, notwithstanding reductions in the numbers we, as a Government, employ today compared to a year ago where we had, for example, an additional £3 million a year on our wage bill paid to 250 Moroccans and that £3 million produces £900,000 in PAYE. So we have lost £3 million pounds of expenditure. We have lost £900,000 of income but we are still collecting the same amount of money. That indicates that the level of growth in the private sector is barely enough to compensate for reductions in other areas but not enough to generate net increases at this stage in our development.

Mr Speaker, I ended my contribution a year ago by reminding the House that even though we had not been successful in everything we set out to do as a Government we were very clear that we had nothing to be ashamed of and that we had now laid the foundation for a solid economic future and a solid political future. I stand by my statement of a year ago and I have to say to the House that if hon Members take the trouble to analyse the information which is always being demanded they will see just how solid the situation is although it is not the cash generation machine we would like it to be and we believe it could be. The Government have no doubt whatsoever that the structure that we have developed, which we still need to work on, is one which can and will guarantee a sustainable economy for Gibraltar and that we would be today much nearer total achievement of that target if it were not for extranea events outside our control. But whatever extranea events outside our control may or may not develop we have got absolutely no intention of changing direction.

In looking at the proposed expenditure for the forthcoming year the House will see that we are maintaining the levels of previous years on recurrent expenditure and the level we have recently reached of expenditure in the Improvement and Development Fund. In terms, as I mentioned a year ago, of the expenditure of the Improvement and Development Fund, that expenditure had a major impact in the expansion of the construction industry and of employment in the construction industry

in the years prior to 1992. I told the House last year that the broad figures in the private sector construction industry was that we had an industry with roughly 700 jobs in 1987, that it reached a peak of 2,500 jobs in 1992 and that we expected it to get back to what it used to be sometime in 1994 and that is where we are today. I think the size of the industry and the volume of its workload has now completed the cycle and we can expect that it will start expanding from now on but it is highly unlikely to reach ever the level that it reached in 1992 of 2,500 jobs. One of the areas where we have been as a Government concerned to make an impact on unemployment amongst Gibraltarians has been in increasing the Gibraltar component of the construction industry. Hon Members may be interested to know that the position in that respect if we identify what would be considered the lowest common denominator. That is to say, making the definition of the participation of Gibraltarians in the construction industry the narrowest possible to make sure that we are measuring what we want to measure rather than taking, for example, total employment and including part-time typists or storemen or foremen or whatever, looking at the productive element of skilled and semi-skilled workers which can be equated, roughly speaking perhaps, 95 per cent accurately with weekly paid adult males. In that area, between April 1988 and April 1994 when the cycle of growth and contraction back to the original level took place, we saw an increase in the number of Gibraltarians from 10.8 per cent of the industry to 32.7 per cent. We had a situation where 81 out of 800 workers in 1988 were Gibraltarians and 239 out of 750 in 1994. In the meantime, as I have said, the industry reached a peak in October 1991 of 2,000 jobs and at the time, the proportion of Gibraltarians out of the 2,000 jobs were 177. So in fact between April 1988 and 1991, the expansion in the industry was that the industry trebled and the Gibraltarians in the industry doubled. Since then the industry has gone back to one third but the Gibraltar element has doubled again. If we look at that situation it is the one area where we can say we have been most successful in trying to make the permanent construction employment as much made up of Gibraltarians as possible. Clearly there is still room for expansion because if at present the industry employs 32 per cent of male manual workers, Gibraltarians, it means that 68 per cent are not Gibraltarians and since it is an industry where there is a higher level of turnover than in any other one, it is an industry where it is easier to replace foreign labour than in any other one because it is not a question of people being sacked from the jobs they have held and being replaced by somebody else. It is an industry that by definition is made up of maybe 20 employers and those 20 employers expand or contract their workforce depending on their workload and if there is

available local labour then they will take the local labour and that is happening in 1995 to a degree that was not happening in 1988 when we came in when there was no choice if all that there was in the entire industry was 80 people and perhaps 75 were employed and 5 were out of work. Therefore the pool of available construction workers was of five people, no more than that. Today if we have got 250 then clearly it is a situation where there is a greater opportunity. We believe that employers in the private sector are not making the maximum use of their opportunity to employ local people in the construction industry. We believe that there is a clear correlation between the nationality of the employer and the choice of the employee and therefore we clearly see that it is the small Gibraltar-owned construction company that tends to be most willing to give local unemployed construction workers an opportunity. If they do not deliver then they do not deliver but other UK or Spanish managed and run companies tend to discount the capability of somebody from the local job market who has been in the industry almost as if there was a built-in bias against the Gibraltarians. There is little that we can do within the constraints of Community law to redress what one could term reverse discrimination except to make the point both publicly, as I am doing today, and indeed privately as my hon Colleague Mr Baldachino constantly makes when he talks directly to the Chamber and to employers and explains to them that it is in all our interests. It is not just in the interests of the Government and in the interests of the employee, it is also in the interests of the employer that we should have lower unemployment levels and that people who are more likely to spend a bigger chunk of their income in the domestic economy the better for all concerned. Obviously, it is an area where we will continue to press and the emphasis in the Employment and Training Unit on the training side is in fact geared to achieve greater local participation in the construction industry. We have got a particular problem in that the skills shortage is almost entirely in the trades of the bricklayers and masons where, historically, the Gibraltarian participation has been extremely low, even within the figure that I have given the House of the 32 per cent we have got now and the 10 per cent we had in 1988. It is still the case that we tend to have more electricians and plumbers and carpenters and joiners and painters and plant operators and very, very few people in the bricklaying and mason trades. It is not a popular area and therefore the part of the problem of developing greater Gibraltarian content in that particular field of skills is that my hon Colleague has to work almost like a social worker rather than an employment unit in trying to persuade people that there is a future in that area.

In looking at the level of investment in infrastructure we have no hesitation, Mr Speaker, in saying that if we had to go today through the decision-making process that we went in 1988/89 when we raised the borrowing capacity of the Government of Gibraltar to £100 million and we spent the bulk of that money in investing in assets, we would do exactly the same thing again. The position, as the House knows from answers to questions, is that we have now reached a balance of outstanding debts of just over £99 million. I would remind the House that there were people saying we had already reached £100 million in 1992 and predicting that we would be getting another £100 million on top of that £100 million between 1992 and 1995 and therefore I want to remind the public and the House that it is £99 million in 1995. We do not expect to require to exceed the £100 million limit during the course of the next 12 months and we will consider what policy we should adopt in 1996 after we have won the next election and we are re-elected.

As the House knows the Government introduced a specific special fund in 1992 - the General Sinking Fund - having put a commitment to do it in the manifesto when there was a debate during the general election that we would not be able to pay back the money. The General Sinking Fund, as the House was told in answer to a question by the Financial and Development Secretary, now has just over £15 million. We expect that that General Sinking Fund will keep on growing with the level of activity we have got today, without any further expansion in the economy which we expect there will be, but without relying on it, with the present stream of income which is hypothecated to that fund, we expect that the fund will be in a position, comfortably, to repay the £50 million of national debt which matures in the year 2004. The balance of the debt is in the commercial banks and in local bonds which have got different maturity dates and therefore is in the nature of a revolving facility. Within that revolving facility we expect to be able to have sufficient flexibility to meet our requirements for capital expenditure over the next 12 months. It is quite possible that the repayment schedules will be slightly more than the borrowing needs in which case we may well find that during the course of the next 12 months the debt outstanding actually comes down rather than staying at just under £100 million. Depending on what happens over those next 12 months we will then decide in 1996 whether we need to proceed with considering a higher level of debt or not. Let me say that the management of the national debt of Gibraltar has been one of the many controversial issues over which people have made all sorts of outrageous statements without bothering to check the facts. I think the House now accepts that since we have only now reached £99 million it is axiomatic that

had we had a need to borrow at any earlier stage we would not have used more expensive borrowing via a Government - owned company when cheaper borrowing was available to us directly as a Government from the banking facilities we enjoy which are under-utilised. One would have thought one did not need to explain that if one has an overdraft facility in the bank where only 0.25 per cent is paid over the base rate and is not used because one has got spare capacity, one is not going to go rushing off to another bank to borrow at 1.5 per cent when one can borrow at a 0.25 per cent. Although whenever Opposition Members have asked me to tell them what borrowing was being done by the companies I have refused to do it, I think the Leader of the Opposition finally got the message when I gave him this explanation the last time and he said whether he could draw the conclusion from that that all the borrowing was the borrowing that there was in the Consolidated Fund. Let me also make clear to prevent and pre-empt any possible confusion in his mind that it is not the case that we are substituting national debt by deposits in the Savings Bank, because I want to avoid the pitfall of him falling into another erroneous conclusion. The money in the Savings Bank belongs to the depositors in the Savings Bank not to the Bank, not to the Government. That does not stop the Savings Bank buying Gibraltar Government debt like it can buy United Kingdom Government debt but if it buys Gibraltar Government debt it can only be part of the debt which is the £99 million. It is not possible for the Savings Bank to lend money to the Government of Gibraltar over and above the £99 million and it is not happening so he can scratch that of his list. Debate in terms of the public debt that we have in Gibraltar are quite proper and we should have them. We are entitled to argue amongst ourselves about anything we want and we are certainly entitled to argue as a people about how we spend our money. But unfortunately it is often the case that what we are dealing with here in Gibraltar then gets reflected externally and I can tell the House that the concerns that have been expressed here about borrowing is something that has led to my having to give the United Kingdom Government, to reassure them, the kind of explanation which is reflected of course in the Estimates so they understand that it is not true that we are acting outside the borrowing limits laid down in the ordinance. What does that lead to? I will tell the hon Member what it leads to. It leads to a situation where in 1989 when we came to the House to bring legislation to set the limit, I asked the British Government at the time - since we were new and we did not know what was the constitutional position - whether in fact we required the permission of the United Kingdom Government to establish what the limit should be. The reply that I got in writing was that constitutionally the debt of the

Government of Gibraltar is something that the Gibraltarians are responsible for. This is why we are not able to borrow as cheaply as the UK. The UK is able to issue central Government debt in London at a rate and if I want to go to London and borrow then my debt, as Gibraltar, has to pay a premium in interest over the British Government debt because it is not considered to be sovereign debt of the United Kingdom Government. It is considered to be sovereign debt of the Government of Gibraltar. We accepted obviously, that that was the constitutional position and we went ahead and we borrowed £50 million pounds on the London Stock Exchange and paid the premium. We paid the premium on £50 million and we borrowed £50 million because we were advised by the Crown Agents that it was not possible to borrow less than that. There is a certain level of fees that are charge don the paperwork and those fees are the same whether £1 million of £50 million is borrowed. Therefore if we only borrow £1 million then we finish up paying 20 per cent interest because the fees are such a big chunk of the loan. We have therefore a situation where having done that the fact that in 1991 and 1992 in Gibraltar we had acrimonious debate about whether we were heading for bankruptcy or not heading for bankruptcy caused the British Government to say "Wait a minute, I have told you that it was your responsibility but of course it is your responsibility because I am assuming you are not heading for bankruptcy. If you are heading for bankruptcy in Gibraltar and you are not going to be able to pay the £10 million then, although we told you in 1989 and you could fix it at any level you wanted and that what we would give you was advice if you asked for it, we are now nervous about it and we want to be consulted before you raise the limit". That, in my view, is not their prerogative. As far as we are concerned and the Government of Gibraltar will fight on that issue, if the British Government were to say to me tomorrow that we are not permitted to borrow more than £100 million pounds - it is a self-imposed limit - then our position would be, "Fine, you want to fix the limit? You fix the limit and you underwrite the debt and then I go to the banks and I borrow the money cheaper because it is not Gibraltar Government debt, it is British Government debt. What you cannot do is say to me how much I may or may not borrow but whether I am able to pay or not able to pay what I borrow is my problem and therefore the rate of interest that I must pay to the lender reflects that capacity to repay." We in 1988 tried to persuade the British Government to go down the opposite route and we said to them that we would be interested in seeing whether it was possible to have - because that was the advice we had from the Crown Agents and from BZW that handles our own - in the accompanying

literature of the debenture issue an acceptance by the UK that their constitutional responsibility for the financial and economic stability of the territory meant that anybody lending to us could be guaranteed without necessarily having a written guarantee from the Chancellor of the Exchequer, that there was failsafe mechanism in the constitution which meant that the UK became the lender of last resort, which would be the case with the local authority in the United Kingdom. If a local authority was unable to meet its debts then the reality of the matter is that through the central government the debt would be picked up. If we had been able to get that we would have been able to borrow more cheaply and therefore it would have been worth negotiating with the UK what level of borrowing they would be happy with in exchange for being able to borrow at a lower cost. That was why they came back and they said "No, I am sorry, you have to pay what the market charges because really as far as we are concerned it is entirely your own decision whether you decide to borrow a £100 million or you decide to borrow a £1,000 million. If you want our advice we will give you advice as to what we consider to be a reasonable, realistic, cautious figure or whatever." We took the decision ourselves in 1989 without their advice. We said "It is not advice that we want. What we want is either a commitment that will save us money or we will take our own decisions and act on our own responsibility." Therefore the £100 million has been there and we see, as I have said, no need to change it before the general election in 1996. We will review the position then but on present analysis it is unlikely that Gibraltar will need at any point in time to have more than a capacity of borrowing a £100 million because unless there was a very huge increase in the size of the economy we do not think that the level of public debt to sustain effectively the replenishment of the infrastructure at any point in time will require more than that.

In terms of the ratio of debt to GDP I will remind the House, of course, of what I have said before. We are one of the very few members of the European Union that meet the criteria for economic and monetary union laid down in Maastricht in terms of the ratio of debt to GDP or the ratio of annual public sector borrowing requirement to GDP. We are below the 50 per cent debt/GDP outstanding ratio and we are below the three per cent annual GDP/borrowing requirement ratio. The United Kingdom that has its own ideas of good government and bad government has just finished the year having borrowed £36 billion more in the last 12 months than it already owed at the beginning of the previous year. A mere £3,000 million a month and they expect to be able to survive the next 12 months hopefully by Mr Clarke only having to borrow

£2,000 million a month for the next 12 months, increasing the national debt of the United Kingdom by another £24 billion in 1995/96 whereas I am telling the House we expect not to increase at all over the next 12 months. For the year 1995/96 the Government are projecting a zero net public sector borrowing requirement. No additional borrowing!

Turning, Mr Speaker, to the structure of the Consolidated Fund expenditure for the next 12 months, the House will see that the Government have continued with the policy of exercising constraint in the availability of departmental budgets in order to maintain the ceiling on public expenditure in some areas to compensate for the commitment of the Government not to put any constraints in other areas. I think it is important because that is what we are here to do today, that the position of the Government on public spending should be clearly understood and how we see philosophically and ideologically our responsibility and our right to exercise that responsibility without having to seek the permission of anybody else. The money that we are voting to spend today is not the money of the Government, it is the money of the people and the people have given us, the Government, the responsibility for exercising judgement. We are exercising the judgement in accordance with the criteria we defended in 1988, we defended in 1992 and we will defend in 1996. The democratic process provides that if somebody wants to spend the people's money some other way what they do is they put alternative proposals to people and people choose and nothing is going to change about that in the next 12 months and it would not have changed in the last 12 months and we do not accept that it is the role of the unions in the civil service to sit down with the Government and require the Government to negotiate what should be the size of the budgets in the departments. This is totally unacceptable and will not be accepted now or at any time in the future for as long as we are the Government their proposals for spending money as civil servants, not through their unions. Through their unions they make representations about their own pay and conditions and that they negotiate with the Personnel Department based on comparisons with UK. Let me give the House an example in an area which is not controversial and where it is straightforward and where there is really very little leeway. If the fire service in Gibraltar is based on the pay of the fire service in the United Kingdom and the United Kingdom gives tomorrow 1 per cent, we give here 1 per cent and if the United Kingdom gives 10 per cent, we give 10 per cent because we are totally committed to the principle of parity and we believe we have to honour that commitment unless we reach a point where it was an economic impossibility and then we would have to go back

and explain to people why we would have to stop doing something in which we believe and to which we are committed. But as long as we are able to honour that commitment we want to honour it. We think it is good for Gibraltar. We think it provides stability in industrial relations. We think it provides a good way of dealing with problems of relativities. The Chief Fire Officer then comes to the Treasury with estimates of the money he is going to need into which have been built the estimates for wages and the estimates for fuel, and the estimates for repairs. The allocation of resources to that department is a matter for the civil servants, in their official capacity as advisers of the Government. Not a matter to negotiate with the union that represents the firemen, and that has been one of the issues in dispute over the last month and it needs to be understood that that is why we have said this is not an industrial relations issue. It is a political issue because it is today in this House when we come to the Committee Stage that somebody can say "I think you are giving the Fire Brigade too much money, or too little money" and if they are able to persuade the Government then the Government use their majority to alter the allocation of resources to one department as opposed to another department. If we have put in these Estimates that Mount Alvernia should get £200,000 more than last year, it is because we think that that is where the money should go this year as opposed to going somewhere else. Not because we have negotiated it with anybody. That is something which has been of public interest recently which I think it is important to explain so that it is understood that that is the policy and that if people want to say that because that is the policy in which we believe and for which we stand and which we will defend and which we have believed in when we were in Opposition, then if people want to accuse us of being anti-union or being dictatorial, of not wanting consultation then that is fine and if the Opposition Members publicly support the campaign then it is a matter for them. All I can say is that it is a very peculiar policy to support a campaign which says the distribution of the resources in the Government annual budget should be negotiated with the unions that represent the civil servants who presumably will all want more. I cannot imagine any union coming along and saying "We want to cut the budget". Within the strategy of the Government, since 1988 and here we are, Mr Speaker, in 1995 and it is very peculiar as I mentioned last year for a Government to have to defend decisions taken and implemented in 1988 in 1995 but since we have a situation where people feel that they can question everything we did since we got elected in 1988 then we have to defend everything we did since we got elected in 1988.

Since 1988 we made it absolutely clear that one of the fundamental elements in the restructuring of the economy of Gibraltar required for survival, in our judgement, was the need to maximise the use of manpower and the need to maximise the use of land. We argued from that side in 1987 and from this side in 1988 and the record shows that the policies were the same, that it was nonsense to talk about an economy with many pillars. That it was really an economy with two sources of potential wealth - land and people. It did not really matter in which activity the people and the land were used as long as they were used in the most productive and efficient way possible. That is what would create wealth for Gibraltar and in order to be able to do that one of the things that was manifest to us was that the size of the level of employment in the Government sector was not sustainable and that it had only been capable of being sustained in the past in a situation where for every pound the MOD spent, the Government of Gibraltar spent 25 pence because that was the formula in 1976 that brought us parity. In 1976, Mr Speaker, the situation was self-evident although there were people arguing then against it who eventually were convinced and who eventually saw the benefit of what was being argued, the position was that if the British Government increased the budget of the MOD in Gibraltar on wages by £10 million, two things happened. The Government of Gibraltar got £2.5 million extra revenue and they got £3 million extra of expenditure which they were able to meet from the tax they took from their own employees on the £3 million plus the £2.5 million that have been paid by the MOD. The net result was that it was budget neutral for the Government of Gibraltar in terms of direct expenditure and direct income but of course it had an impact in disposable incomes, in expenditure in the private sector and in indirect revenue to the Government from import duty through the higher levels of consumption. We spent many years between 1972 and 1976 arguing that philosophy and eventually when it came in in 1978 it provided an enormous boost to the Government of Gibraltar and the economy of Gibraltar and income levels at the expense of the UK Government who paid the bill. Today we are committed to maintaining the level of wages and earnings and conditions in the Government of Gibraltar that were established then notwithstanding that the position that was taken by the Government of the day in 1978 was to say "We are accepting it today with the present MOD presence." That was said in this House and it is a matter of public record. The position of the Government then was "We have been convinced that this is sustainable with the size of MOD that there is today but we will not commit ourselves to maintaining this if in fact as a result of the extra cost the MOD start cutting." We came in 10 years later

with the commitment that we would keep it with or without the MOD but what we could not give was that we would keep it for as many people. We would only be able to keep it by being able to maximise the utilisation of the existing manpower by having a commitment that there would not be any redundancy from the Government of Gibraltar but by seeking in exchange for those guarantees that to our knowledge no other Government has given anywhere else, the flexibility, the understanding and the cooperation of members of the public service in the changes that were required to make it possible to do that. It is not possible to honour those commitments unless people in the service help us do it. We have had that help and I want to say that we are very grateful for the understanding and the support that we have had since 1988 and that none of the changes would have been possible if they had been resisted every inch of the way and that we would have a disastrous wrecked economy today if that had been the case but in fact it has not been the case. It is complete nonsense for people in the union to go to our neighbouring country and tell the local newspaper that we are planning to dismiss 1,500 civil servants. It is complete nonsense to say we have already dismissed 1,800. These are the figures quoted. Of course if those figures are quoted I suppose they need to be quoted in the town next door because they cannot be quoted here because here it is so obvious rubbish that nobody would dare print it. But since they are quoted and since what we are doing is voting the pay of civil servants that is what we are doing here now, let us be clear what it is we are doing, we are voting the pay of just under 2,000 civil servants, that is what we are doing. We have never had 3,800 civil servants. We have had maybe 2,400 or 2,500 and of course some of those civil servants are not civil servants because they are now employed by Nynex or now employed by Lyonnaise and they are not classified as civil servants but they are getting paid the same or more than they were getting paid before for doing what it was they were doing before. If we have got people who were previously the Crown Lands Department of the Government of Gibraltar in the 1988 Estimates who are now Land Property Services because they voluntarily agreed to go from the Government, that does not mean we have made five people in the Crown Lands destitute and sacked them. It means that five people helped us by taking the initiative of setting up an entity which would sell to the Government the service they were previously providing as civil servants and still have the ability which they are not supposed to have in the public service but which has never been a 100 per cent foolproof of competing with the private sector. I remember, Mr Speaker, that on many occasions in the past there were those in the private sector who used to argue about unfair competition from

people who were being paid by the Government to be doing a job in a Government office and who according to those complaining were in the Government office but not doing the job they were paid for, doing something else, in competition with the guy in the private sector. That was a constant theme of complaint in the 1980's. Today I am not saying that it is impossible that it should happen but if it happens at all it certainly happens less than in the past but where there are people who are competing in the private sector they are competing in the private sector openly having left the Government service and competing for work with other people with no conflict of interest. They do something for us for which we pay and they do something for another customer for which they get paid and that additional flexibility is good for them, good for public spending and good for the economy of Gibraltar. It is good that people should be more flexible, should have the opportunity to exercise that flexibility, should be given the chance to start their own little businesses and contract their services to the Government and expand and have opportunities that they would not have within the Government. So we are absolutely committed to that policy. But we are also committed to doing it by agreement with those affected who are the ones who have got the right to give or not give their agreement and it is not a matter for us to say to a group of civil servants who want to put proposals to us "Look we will not look at your proposals because your union does not want you to make them." If their union does not want them to make them it is up to their union to stop them making it or it is up to the people to tell the union where to get off because at the end of the day it is the people that own the union and not the union that owns the people. If the union wants to know what the proposals are they get the proposals from their members, not from us and we are entitled as a Government to consider things put to us and what we have said to the unions "The fact that you go running around like a headless chicken because you hear that somebody is talking to somebody it does not mean that we are not following established consultation procedures or a transfer of undertakings or EEC law or Directive 69/50," or any of the other things that they keep on quoting without reading what it is that they are quoting. It simply means that there is a clear position of the elected Government which we have been carrying out with their support since 1988 because as I said we are grateful both to the civil servants and to their organisations for the commitment and the support and the cooperation we had until now and we wish to continue having it but we are not prepared to do a U-turn on the policies on which we got elected in 1988 and 1992 because we believe they are necessary policies and we believe they are good policies. They are difficult. We are

asking people to accept changes sometimes we need to spend a lot of time explaining things and persuading people but we are doing it not because there is some ulterior hidden agenda. None of this is something that pays us as individuals anything, Mr Speaker. We gain nothing out of this personally. All that we are doing is putting up with aggravation because we believe it is the job we have been elected to do. We have the example in this House. Does not the House understand that the Usher of the House and the clerk of the House as individuals have been involved in that exercise for which we are saying we are very grateful? We are grateful that there are committed Gibraltarians in the public service who accept that if their skills can be used today in one department, tomorrow in the Financial Services Commission and the day after in the House they will go where they can be of most use to our country and our people, and we are proud of that. We are proud of that commitment and we are proud of the fact that it has been the solid support of hundreds of workers at all levels within the public service that has enabled us to carry out the transformation we have carried out in 1988, 1989, 1990, in 1991, to which we went back for a renewed mandate to the people in 1992 and which we have carried out in 1993 and 1994 and which we will carry out for the next 12 months and on which we will stand for election in 1996. So I hope there is no confusion. Like Mr Hurd, I want to do things by cooperation.

I explained last year, Mr Speaker, that the ability to do this was now severely constrained. That is to say the most easily identified areas were the ones that we did first. In some respects the approach was one of saying "The reality of it is that running a telephone system is not clearly a job that civil servants do anywhere in Europe. Even where there is a PTT-public utility telephone - it is a nationalised industry which still has commercial ways of working and therefore this was a relic of the old City Council days - the municipal telephone service system. But if we want to be in the 21st century with fibre optics and being able to attract people here we have got to get professionals in who can bring in to an investment the cash and the expertise that we are not going to be able to generate locally and if we can persuade the people in the department which we did with the help of the union at the time, that it was in their interests to move into a venture which had a longer term future that we could ever hope to give them, then it was better for them and better for Gibraltar. I am glad to say the message was accepted and it happened and I think the results have been to the benefit of all concerned, both the people in the company and the customers of the company and the ability that we as a Government have had to promote Gibraltar by showing that the level of

telecommunications technology that we have here is as good as that of any of our competitors. We would not have been able to do that with the old system. That does not mean that the workers in Nynex are not entitled to have rows with their managers or take industrial action or fight for more money. They have the same right as any other worker anywhere else but the principle of the decision of what we did is one that we will defend today and in the future because it is self-evident that it was good. Let me remind the House that the Government of Gibraltar have only got two joint ventures since 1988 that it did not have before 1988, which are Nynex and Lyonnaise. In one we are 51 per cent owner in the other we are 30 per cent owners. That is the extent of the privatisation, denationalisation and everything else of which we hear so much. In other areas like the example I have given of Crown Lands what we have are people who own the company that sells their skills to us. It is not a joint venture with the Government. It is owned by the people that were previously in the Crown Lands who came to us and said "We are prepared to sell you a service for such and such a budget." We looked at it and we came to the conclusion that as long as the proposals that they were making to us would not involve extra money because the whole purpose of the exercise from our point of view was that if there was a saving in that area we would then be able to meet increases in another area without the total going up. How else would we be able in this House today to meet extra costs for education, or extra costs for the police, or extra costs for the fire brigade, without the total going up unless we had not gone down this route? How else? And that is the route we have gone down and we will continue to go down as long as we have got people willing to do it, willing to take on the challenge, willing to take on the responsibility and obviously at a price which we consider to be sustainable within the constraint of maintaining public expenditure levels at the levels they are today which it is our intention to continue to maintain. Therefore, it is in the context of the revenue and expenditure that the analysis that I am making for the House any member of the public can make for himself by getting these Estimates and they can see how it is that we have been able to contain areas of expenditure static year after year where we have been able to contract things out to people. How does it happen? It is question that has been asked, Mr Speaker, in the saga of the dispute in the civil service. In interviews, the question was being put. "How is it possible that people can go out of the Government and earn more money and yet it does not cost more money to the Government?" We do not need to have some magic formula to work that one out. The formula is that when people are working for themselves, as I am sure Opposition Members know, they tend to put a level of effort into it

that they do not necessarily put when they are working for somebody else. Therefore, if we have got a situation where if somebody comes to the window with a problem and one is having a cup of tea he can say "I am sorry now it is tea time, come back tomorrow." That person may not come tomorrow he will go to somewhere else but one still has the pay at the end of the month. I regret to say that invariably the person who is the owner of the business or has got a stake in the business and whose wealth is related to customer satisfaction is more likely to let the tea go cold than the customer go cold. These are not secrets that we have discovered, these are self-evident truths that everybody knows everywhere. Opposition Members know it, the people outside know it and the people in the service know it. There can be no doubt, Mr Speaker. The evidence is there in the Estimates. It is in the way we have been able to contain public spending that the improved service has in fact been reflected through major improvement in productivity in a way which was never achieved before through countless negotiations on productivity deals. It never happened before and I can tell the House because I was involved for many, many years in negotiating productivity deals on behalf of the union. Invariably on the initiative of the Government who wanted to achieve these things and it never happened. People would say "If you give me an extra £2 a week I will stop having a tea break and instead I will go with a packed lunch and a thermos flask" and that happened in the first three months. Three months later everybody, including the guy that is supposed to be supervising the guy with the thermos flask and the sandwich, are all having the tea break and I can tell the House that in my experience I sold the same tea break at least 20 times in the 14 years I was in the union. God knows how many times it has been sold since then. Those are the real facts and the truth and if we have got to be honest with each other, fine, we can argue because we want to do different things. We can argue because we think one side is making a mistake or not making a mistake but let us not argue by making false claims and seeking to confuse people because that is dishonest. That is attempting to manipulate public opinion about issues that are not issues.

The Government, Mr Speaker, created in 1988 the Gibraltar Investment Fund and the Social Assistance Fund. At the time the creation of the Gibraltar Investment Fund which was a commitment in the 1988 manifesto was something which was a Government decision. The creation of the Social Assistance Fund was something which the Government did with the support of the Opposition, at the time. Because the Opposition was willing to support, the Government explanations as to the strategy and the objectives and the reasons were given outside the House

and in exchange for that explanations there was unanimity in the House and it was considered that it was in the public interest that the less detailed delving into the mechanics of it that was done the better. It happened, of course, during the time that I was negotiating with Baroness Chalker the dissolution of the Spanish Pensions Fund for 1993. I am saying that because since it is still an issue let us now remind the House of how it started and when it started. The Gibraltar Investment Fund was not done with the support of the Opposition; it was purely a Government decision and the Government went down the route. I have explained it before but since we are at Estimates time and it is conceivable that all this will surface sometime during the debate I might as well explain it again. I gave quite a detailed explanation last year and I have done as I said before that and it may well be that people do not remember these things or do not go back and check. Mr Speaker, in March 1988 the newly elected GSLP administration found itself the owner of a company which employed 800 people, had £8 million of sales and was losing not just its shirt but its underpants and its socks. The House had just voted in November a £2 million subvention on which we abstained because the Financial and Development Secretary then, who is the same one as is here now, told us that he could not tell us what the £2 million was for and we said "We do not want to deprive GSL of the £2 million but if you are not telling us what it is for we will not vote in favour, we will not vote against, we will abstain." This was in November 1987 and of course by March 1988 the £2 million were gone and we found that the UK came along in 1988 as the Member State responsible for our external affairs, which has been a perennial phrase since we got elected in 1988, and told us that we could no longer subsidise the shipyard, having just done it three months before, because there was a new EEC Directive that had just come in on capacity reduction in the European Union on ship repairing which only allowed public subsidies for reducing ship repairing capacity, that is to say, one could give Cadiz or Marseille millions of pounds provided what one was doing was saying "If there are three dry docks I am going to close two down and keep one." But a subsidy could not be given to maintain the level of activity. That is what we wanted to do; maintain the level of activity; maintain the 800 people there in jobs. There was no way out. The yard was losing money daily. It had a problem in meeting its wages. We had given the workers in the election campaign in February 1988 an undertaking that their jobs would be guaranteed throughout our term of office (from 1988 to 1992) and this was a month before and we had no money. That is, we had no money in the shipyard. We were prepared to come to the House and stand here and say "We are putting in the budget £x million for the yard because we have given

them a commitment that we will maintain their jobs for four years" and the philosophy of February 1988 and the philosophy of May 1995 and the commitment as socialists to protecting and defending people is exactly the same, whether people like it or they do not. What we said to the workers in the yard in 1988 was "We will give you a guarantee that you have never had and that you will not get from anybody else of four years employment provided you accept the flexibility that you have to move where you are needed. What we cannot do if there are no ships to put in the dry docks is give you a guarantee that you can sit looking at the empty dry docks and that other people working elsewhere will pay you every week because that is not a way of combatting exploitation." It is a way of institutionalising exploitation and making the worker in the private sector the exploited person and on the basis of that agreement we created a range of companies into which we redeployed people voluntarily and what we finished up with was not a mass of new companies that had taken over the Government. We finished with the same 800 people that were already there. I have explained it innumerable times, Mr Speaker, the same 800 workers that were there when we got elected were there six months later but instead of being 800 employed by one entity there were 800 employed by 20 entities. It was a device which we invented to deal with the problem which appeared insoluble. We had a yard that lost money. We had workers with a commitment and we had a British Government telling us we could not give them a subsidy. So what did we do? We then went back to the British Government and said "I am now removing the security guards from the shipyard and I am creating Gibraltar Security Services Ltd who will employ them and Gibraltar Security Services Ltd will bill the yard for the security work but it will do it below cost. Is there anything in the Directive that says I cannot subsidise a loss-making Government-owned security company?" And the answer was "No, there is nothing in the Directive". Just like we came up with an innovative way of dealing with the Spanish pensions we came up with an innovative way in 1988 of dealing with the shipyard crisis. And what did we do? We finished up with 150 shipyard workers who were actually making money because there were 50 non-shipyard support workers, all of whom were losing money, all of whom could be subsidised. We then started a process in 1988 of seeking to cut on the losses in those other areas by diversifying out of ship repair related services so the people who were originally security guards and who then became Gibraltar Security Services employees eventually also got involved in things like car parks and clamping and other things as a way of reducing the inherited loss-making position which we were funding through the Government buying shares in those companies through the Gibraltar Investment Fund. All this has been

explained and all this is recorded and all this is forgotten and therefore people need to be reminded because if they are not reminded then we get this total nonsense being used of a transfer of work out of the Government to nebulous unknown companies controlled by Ministers. Nobody knows what they are up to. Millions of pounds slashing around and all sorts of things which get repeated so often that people finished up believing them. I sometimes think that even the ones who have invented finish up believing the damned things. The exercise of the creation of companies went on between 1988 and 1992. We defended it in 1992, Mr Speaker. It is not a normal requirement of democratic processes that one goes to an election and defends the policies of the last four years and one has to spend the next four years continuing to defend what was done in the previous four years instead of having to defend what is being done. If people want to talk about democratic deficits, as far as I am concerned, that is a democratic deficit, that I should have to be explaining in 1995 what was done in 1988 because there are people today still twisting it. I am not doing it, of course, for the benefit of the Leader of the Opposition who no doubt will continue repeating the rubbish he normally says irrespective of the explanations I give him. I am doing it, Mr Speaker, for the audience that has tuned in to the radio.

The Government in 1992 set about consolidating and reducing the numbers of companies. In 1991 we went back to the shipyard workers and we said to them "We gave you a commitment in 1988. We are not able to continue to give you that commitment in the future. We could if we chose try and be less than fair to you by waiting till we go to an election in 1992 and then getting elected and closing the shipyard. We will not do that. We are telling you know, in 1991, nine months before, in 1992 we will say in the election campaign that we are not able to give the commitment that we gave in 1988 because we have tried for four years to make a success of this and we cannot. We have done the best, it is not your fault, you have worked very hard, we have been flexible, but it is quite obvious we are not going to make it and we cannot as a Government believe that it is the right policy for Gibraltar to subsidise foreign ship owners by repairing ships at a loss." I could not believe that that was the most sensible way to run the show. "So you have got two choices. You can either carry on working until March 1992 and if we get re-elected we will come in, close the yard and give you your entitlement in redundancy. If we do not get elected then it is up to the new Government to do whatever it wants. Alternately, in the knowledge that this is the position of the Government what we are prepared to do is to pay you until March 1992 nine months

pay on top of the redundancy and we will close the yard now with your agreement." Most people went down that route and some of the people that had gone to other companies came to us and said, "Can you send us back to GSL so that we can also be included in the voluntary package that you have put together for the people because we want to be able to take it too" and this led, not only to the closure of GSL in 1991, but to the reduction in the companies in 1992 which we then said to ourselves "We have now got to a situation where the core activity is gone, do we really want to be involved in a number of other things?" Today, what is the net result of that? The net result of that scenario today is that there are effectively now three Government-owned companies - the Gibraltar Information Bureau, Joinery and Building Services and GSSL which is still active. Those three are the remnants of what started off with 800 people in 1988 and those are the three trading companies which we own and which we started off from 1988. We have Gibraltar Industrial Cleaners which is 100 per cent Government owned and which consists of the people that collect the refuse and where the money that they get paid is voted in the House under the Head "Refuse Collection". There are no other trading companies, Mr Speaker. The other half a dozen companies we have got are the companies that are on Brympton, Westside 1, Westside II, Gib V. We have explained it many, many, many times. I explained it last year and I am explaining it once again in the not very highly optimistic hope that somehow the knowledge of the facts will prevail over the rhetoric. I doubt it, but I have to make the attempt. We expect therefore that this consolidation in one or two trading companies - at the end of the day the commitment is really to the people that are there - will enable us now to group it in a way that we can have one single consolidated account under Gibraltar Investment Holdings. Therefore the primary function of the Gibraltar Investment Fund is now really one which we do not see any further major development in that area unless we have had, which we have always kept as a possibility the situation where somebody came tomorrow, they wanted to invest in Gibraltar and one of the conditions that they put to us was that they wanted us as partners. We are always willing to consider that particular route of investing in a joint venture with somebody if we feel that it is the only way to entice them to come here and invest money which was the case with Nynex.

When Nynex came in Nynex told us clearly that if it was the option of being 100 per cent owned by them they were not interested. They were only interested in partnership with the Government because they felt that that actually gave them a better foothold in the European Union than being a purely 100 per cent owned subsidiary of an

American multi-national. There are a number of possible ventures in the pipeline which people are discussing with us and it is the policy of the Government not to make announcements on these things until we are as certain as it is possible that they are about to open their doors and go into business. Why is that? Is it because we are a secretive lot that do not believe in open Government? No, Mr Speaker, it is because it is a mistake to announce things which will give people who do not want us to succeed, the opportunity of sabotaging them. We have seen that happening on more than one occasion in Gibraltar and it is because it is a mistake politically to give the Opposition Members the opportunity of asking every month when is it going to happen. There are many things that look very attractive on paper and then when we start digging under the first page and we start reading the fine print then we discover that it is not attractive as the people who came with the proposal would make it out to be and we have had many, many man hours of our time and of time of senior officials in many meetings with many people which, regrettably, have not produced tangible results and employment which we would like to see. We believe, and I have said so many times, that the development of the private sector and of new activities is absolutely crucial to our survival, absolutely crucial. The partnership with the Government has to be in Government exercising a commitment to value for money and efficient use of manpower in order to be able to keep the cost of the public services within the limit that they do not become an even bigger burden on the private sector that has to compete with the rest of the world. For this reason, Mr Speaker, it is that again the years 1988 to 1992 we went down the route of creating the necessary infrastructure to be able to have a much larger economic cake than had been the case before. We have heard from the Opposition Members the definition of what we did as an "optical illusion" on countless occasions but no doubt we will hear it on this occasion as well. Let me therefore tell the House how close are we to achieving the level of growth of the financial services industry that we hoped to be able to achieve and if we have not achieved it then to whom should we be pointing the finger? I have no doubt to whom they will be pointing the finger. When we went down the route of investing in infrastructure and encouraging others to invest in infrastructure we were doing it on a feedback from the British Government which was very clear and very unambiguous and which had been there from the day we got elected.

In 1987, Mr Speaker, when I was the Leader of the Opposition, the Financial and Development Secretary brought to the House legislation on UCITS and in fact he produced a detailed memorandum, not as part of the

legislation, for the benefit of ignorant members like ourselves on the other side so that we can understand what UCITS meant and it looked very attractive. We were told then that we were the first ones off the mark. Nobody else had yet got their act together and we had an ideal opportunity. We came in in 1988 committed to doing whatever needed to be done to do this. I can tell the House it is still not being done in 1995. It is a Directive which has now been implemented taking everything that anybody has ever told us into account. Apparently, I am told the remaining problem at the moment, I cannot predict what the remaining problem will be a year from now, is the qualifications of auditors under the 8th Company Directive which has still not been implemented and which the DTI want implemented in a particular way. I am not sure whether it is the Financial Services Commission that does not want it that way or the auditors that do not want it or who it is that does not want it but as far as I am concerned, I want it. I want whatever it is that we need to do so that we finally do it and we finally are in 1995 able to do what we were promised we would do in 1987 but I cannot say I have confidence that it will happen. We have certainly been able to establish to our satisfaction from countless meetings with prospective customers that if we had been able to deliver what we were entitled to deliver we would have got the business. We have found repeatedly, Mr Speaker, people interested in using Gibraltar as opposed to using other jurisdictions provided we could give them a guarantee that Gibraltar's European Union credentials would be honoured and accepted and respected. A guarantee that any sovereign Government would be able to give any potential customer but that the Colony of Gibraltar cannot give a potential customer because the administering power is the Member state responsible for our external affairs in the Union. What does the administering power have to say about this? They say that it is not the desire of the British Government to put any obstacles in our way, that there is a lot of bureaucracy, that these things take time, that they are all very technical. They argue that there is no plot, that they are not doing anything to undermine our ability to succeed and that they want us to have a sustainable, flourishing economy. I believe that the actions do not match the words. People can draw their own conclusions but I have to say in my humble judgement much more could be done and it has not been done. I can certainly point to specific positions where the British Government has reneged on clear commitments given in this area in the past.

In 1991, Mr Speaker, in the area of banking, and I am not saying the banking sector is going to go through the roof if we are able to have Gibraltar licences accepted and

recognised as European Union Licences. I am not saying that. But what I am saying is if we are not able to do it we have not got a future in banking. That I am saying. Why? Because why should anybody want to come to Gibraltar and pay five per cent tax when he can go to the Cayman and pay no tax, or go to the British Virgin Islands and pay no tax, or go to the Turks and Caicos Islands and pay no tax or go to Bermuda and pay no tax? Why pay five per cent tax here? Very simple, because if we were in the Union our nearest competitor is Dublin and in Dublin they pay ten. But if we are not in the Union we are expensive. We are not cheap so we identify being in the Union as the business area in which we were competitive. It is simple arithmetic and we went to the UK and the UK told us in 1991, "No problem, but you have to make sure you implement on time the 2nd Banking Coordination Directive, which requires you to change your 1982 Banking Ordinance, so that people will be able to passport into Gibraltar and if you want we are prepared to help you by sending you Bank of England experts to draft for you what is required," and we accepted their offer. We were grateful for it. The experts came, they drafted everything that was needed, we incorporated everything. I consulted people in the industry as to whether it was beyond what was mandatory under Community law. That has always been the policy of the Government. The Government of Gibraltar are fully committed to honouring our obligations in the European Union and we accept we have a responsibility to do this and avoid exposing Her Majesty's Government to the risk of infraction proceedings. That has never been in question. I have repeated that commitment privately many, many times to the Foreign Secretary and I am happy to do so publicly. But that does not mean that they can say to us that they want us to go beyond what could put them at risk. They may advise us. They may recommend it but they cannot impose it. In 1991 the recommendations that they made went beyond what was required but the people in the industry in Gibraltar advised us that although it went beyond what was required it was not a hindrance to being competitive and that they thought it was prudential and they were happy with it. We implemented. We brought the legislation and we did it. Unfortunately, we discovered six months later that the Treasury did not agree with the advice of the Bank of England and that the Treasury wanted us to do something else. This was reflected, as I have told the House in the past, in the UK legislation in 1992 implementing in the UK what we had been asked to implement in 1991 in Gibraltar which we had already done. We were one of the first countries within the European Union to bring into effect the 2nd Banking Coordination Directive. The Member State UK did it after us and when they brought it in they left us out. They left us out of the European Union totally and they did

not even have the courtesy to tell us they were doing it and we found out by accident because they put out a consultative document which got to the head office of a bank in Gibraltar who then sent it to their branch in Gibraltar and the branch brought it to me. I raised the matter with Lord Bethell and Lord Bethell wrote to Tristan Garel-Jones who wrote back saying, "The Chief Minister is being alarmist." That was in July 1992. "He does not need to worry I know we have left him out of the law in the UK" and they left us out through a very simple device. In the legislation that was brought into effect in the United Kingdom, in the draft legislation that was published, in May 1992, there was, as there is frequently in the Laws of Gibraltar, a list of definitions and it had a definition which said, "Credit institution can be either a home credit institution" which is a bank licensed by the Bank of England" or a European authorised institution "which is a bank licensed by the competent authority in another Member State." I went back and said, "Wait a minute we have got 28 banks here and they are not licensed by the Bank of England and they are not licensed by the competent authority in another Member State so we fall between two stools, we are not covered by definition A, and we are not covered by definition B, so what are we?" Lord Bethell was told, "This is deliberate" not an oversight "because we have not yet decided how we are going to include Gibraltar but this is only a draft regulation which has gone out as a consultative document to the industry. The regulation has to be law on the 1st of January 1993 and therefore before the final version is laid in the House of Commons in December we will have reinstated Gibraltar" and Lord Bethell sent me the copy of the letter he got from Mr Garel-Jones. In November 1992, at a meeting in London with the Foreign Office, the Treasury and the Bank of England, I was told that they deeply regretted that they would not be able to honour that commitment because at the 11th hour they had discovered that the regulation which was made under section 22 of the 1972 European Communities Act only allowed, by regulation, the extension of Community obligations. Recognising Gibraltar bank licences, as opposed to recognising Spanish bank licences, was not a Community obligation. Therefore, much though they regretted it they had on the highest authority in the land (they did not identify who that was) been told that it required primary legislation. It required a Gibraltar Banking Act of the House of Parliament. I can tell the House that I was told in November 1992 that there was a commitment to do this but that they would have to find time in the parliamentary timetable. I can also tell the House that at dinner last week with the Foreign Secretary in his house, I asked him how the job of finding time on the parliamentary timetable was going which started in November 1992.

Apparently it had not gone very far yet, in May 1995. Of course that does not prove anything strange. It is just that the man has been thinking about the parliamentary timetable now for two and a half years, that is all. In January 1993 we went back to the UK Government. I notice that the Leader of the Opposition was raising his eyebrows when I gave him the explanation about the virus in the 1972 Act. We had some people who raised their eyebrows when we told them. We went back to the UK and said, "You told us you have got this legal opinion from the highest authority, can we see it because there are people who are telling us that this does not sound right?" They said "Yes. We will consider your request" and then two months later I said "Can you tell me when I am going to see this legal opinion?" They said "No, sorry, we should have come back and told you a decision had been taken that this is an internal legal document of the UK Government so you cannot see it." I said, "How can I argue against it if I do not know the nature of the argument? Suppose I get an independent legal opinion for you, will you be willing to reconsider the position, because I am happy to give it to you." We got an expensive team of three QCs led by Professor Wade to analyse the argument and they produced for us an opinion in March 1993 saying it was nonsense, that they could have included us in 1992 and that they are prepared to sit down with this unknown highest authority in the land to argue the case privately, on technical, legal grounds. The response from the Foreign Office was that they were delighted with the move that I had made that it showed initiative and so forth. It showed that even in the colonies we occasionally demonstrate a bit of grey matter beneath the dark skin and that they would certainly give the matter serious consideration and come back to me. I asked the Foreign Secretary in his house at dinner last week whether he had now finished considering my opinion, if he had found time for the parliamentary timetable because he said, "Are there things that you would like us to be responding to?" I said, "Yes, I would like you to respond to this opinion which you have been sitting on since March 1993. If it is a waste of time and you do not want to do it, why do you not tell me honestly that you do not want to do it and at least I save myself time, money and effort of going round because I have accepted your argument at face value? I believed you. I thought you were telling me the truth, that you had a real problem, that you wanted to do it and that you had been prevented from doing it because of a technicality. I spent money getting experts to look at the technicality and you say, "Fantastic, that is a very good idea" and if the experts demonstrate it can be done it will be done." I am still waiting for an answer, in 1995. In 1994 a year ago, Mr Speaker following the inter-Government Conference where the leading light was my friend Kenneth Clarke Chancellor of

the Exchequer, it was made clear to me that irrespective of what had been said in 1993 and irrespective of what had been said in 1992 and irrespective of what had been said in 1991, the position was changed. I have told the House before that I was not given any reason at the time for the change but that I had subsequently discovered at least one possible reason which was a Spanish veto in the Banking Advisory Committee on Gibraltar licences. The position put to me then by the Chancellor at a dinner we had on my final day of the Conference, he was sitting next to me, and he made it very clear. He said "If Gibraltar banks are going to passport into other countries and into the United Kingdom I must be satisfied that the supervision of those banks in Gibraltar is as good as it would be in the UK, otherwise I will not do it. Forget whether you are entitled to it as a Community law, whether we have promised it to you or we have not promised it, the answer is very simple, either I am satisfied or I will not do it and all I need to do is that I need to pick up this 'phone and call my opposite number in Luxembourg and say, "There is a bank in Gibraltar that wants to open a branch there, be a good boy old chap, let him in." That is all it requires. So much for consolidated supervision, but then, that he tells me is the way the system works. But, of course, if he does not pick up the 'phone we can do whatever we like here but we will never get into Luxembourg or anywhere else. This was something that I explained publicly and to the industry and to the House a year ago, Mr Speaker, when we brought to the House legislation which was what was needed to satisfy Mr Kenneth Clarke that our banks were not all rotten to the core and he was going to be satisfied by ensuring that there was an in-built UK-based majority on the Financial Services Commission. That was a theory and as the House knows although we considered this to be blackmail at the time and still consider it to be blackmail now, since there was no way that we could get Gibraltar banking licences recognised on our own, we went to the industry and said, "This is the choice." They were not threatening direct rule in February 1994, they were simply threatening not to get recognition for us anywhere in the European Union and not to allow us into the United Kingdom, that is all they were telling us. Although we went through unimplemented Directives, and the Spanish pensions and money laundering and everything else, the one thing that was important on which they wanted action within weeks was this. We came back and we tried to satisfy the demands by taking the action that they wanted which had to be done within weeks which the Chancellor wanted me to say yes to there and then and I said no. I have to go back and if people say they will stand their ground, I will stand my ground and if the people in the industry say we do not think they are right but it is not worth having a showdown over this then

fine. It is their jobs, it is their livelihood, it is their investment, they are entitled to advise me whether they want me to take up the cudgels on their behalf or to gratefully retrieve from the position which I think is the correct constitutional position and our right. I think they are wrong in what they have done. I think they have got no justification whatsoever but where are we today? To add insult to injury, this week we have had the commencement notice of the law we passed here at their insistence 14 months ago. This week! Mr Clarke wanted me to sign on the dotted line on the spot. It could not wait, that is how urgent it was in February 1994. It may well be that it is my aggression, the fact that I do not know how to handle the Anglo Saxons or whatever else we want to call it. I think it is a disgrace and I do not think that it is the way the British Government ought to be treating the people of Gibraltar for 291 years of loyalty. Finally, they have found the fourth person willing to work on the Commission and I welcome that this has finally happened. Now we will have to see now that it has finally happened because until now we have seen no move whatsoever to get recognition for the banks of Gibraltar as banks inside the European Union and since that time in fact what we have seen has been the growth in the banking system brought to a halt. There has been no growth since February 1994 and therefore the prognosis of the British Government that the knowledge that they were going to be appointing the Commission would inspire so much confidence that people would be inundating us with requests for licences has not happened. What has happened is that there is no indication of anybody being interested in coming here and that there has been no growth in the amount of money in our system for the first year since we have been in Government. There was growth every single year when the perception of the world was that the banking system was controlled by the incompetent Gibraltarians but since the perception of the world has been that it is controlled by the wonderful Treasury of the United Kingdom, nobody seems to want to put their money here anymore. No doubt they will say that they need proof that they were all laundering money. We cannot win on this one because whatever argument is used one can already predict what their counter-argument will be, but the reality of it is that the legitimate expectation of the Government and the people of Gibraltar for all the efforts that we have made between 1988 and 1992 encouraged to go down that route, advised by the UK and assisted in putting things in place. Now that the time has come for us to get a share of the market we find ourselves, in my judgement, impaired without any justification whatsoever. I cannot believe that now that this appointment has taken place the newly constituted Commission is going to discover anything at all wrong

with our system or that they are going to have to introduce any changes or that they are going to have to find that there are lots of people in the banking system who are not fit to be bankers. I do not see that will be the result. I think the result will be no change. There are important points of principle at stake which we have sacrificed a year ago against a promise of results which have not materialised and which I cannot predict will materialise ever because what I asked the Foreign Secretary again at our dinner last week was, "Now you tell me you finally found a suitable candidate who seems to be a very influential and high-powered individual and we hope that his presence on the Commission will mean that our status will be elevated in the eyes of the world but now that that has happened how quickly is the rest going to happen? Is the Chancellor now that he has got all his people in the Commission likely to relent and do all the things that were promised in 1993 and 1992 and 1991?" He said, "I cannot give you a commitment on that area. He will move when he is satisfied that the system in Gibraltar is working to his satisfaction" which means effectively that I cannot say in 1995 Gibraltar licences will be accepted as European Union licences in the UK, never mind anywhere else. In the UK! No guarantee at all that this will happen in the next twelve months. I have gone into a great deal of detail in this area, not because I want to knock the British Government, not because I want to be aggressive against them, because these are the facts. I can give chapter, verse, dates. These are the facts, I am not inventing these. This is there for anybody to check for themselves, most of it is a matter of public record. It is accepted that in the political game, if people want to say if somebody else other than the GSLP had been in Government, none of this would have happened, it is their right to say that and then the people can believe it or not believe it and if in 1996 people believe that the answer is that if we are removed from office we are going to be recognised everywhere because what the British Government really is concerned about is the fact that we are not trustworthy guarantors of Gibraltar notwithstanding the fact that the people think we are and vote for us, then if that is the reason I do not think it is consistent with having a constitution and elections in Gibraltar because if at the end of the day what we need to do is ask them who they want to be in Government then why bother to go through an electoral process. We could save ourselves a lot of money all we could say to Kenneth Clarke "When you finish nominating the seven members of the Commission please can we have the eight Ministers next?" Save us a lot of trouble. Perhaps, Mr Speaker, I will then continue after lunch.

The House recessed at 1.20 p.m.

The House resumed at 3.20 p.m.

HON CHIEF MINISTER:

Mr Speaker, before we stopped for lunch I was giving the House a brief resume of the history of one particular area of development in the financial services industry to which we have attached a great deal of importance in terms of its prospective capacity to grow in the new rules that came into effect on the 1st of January 1993 with the creation of the single market in banking. Therefore, as I go on to explain other areas of potential growth for our economy and of the problems associated with effectively utilising this potential I think it is worth just rounding off the position on banking to explain to the House - it is something we have again dealt with in the past - how we see Gibraltar's position in the European Union, in economic terms as opposed to political terms which is something that I think has to be dealt with in the context of Gibraltar's decolonisation, but in economic terms, in being able to exploit the potential of the single market which was announced as being the major development of 1992 but which, of course, is still in the process of happening and was happening before 1992. It is not a question that on a given date overnight the system changed but the movement is clearly in the direction of liberalisation within the market, removing national barriers to trade and protectionism and as a quid pro quo having to ensure that there is a level playing field because everybody subscribes to the same rules. Therefore, this is intimately linked to our obligation as members of the Union to ensure that the laws of Gibraltar reflect our responsibility in the European Union to the same degree that they are reflected in other Member States. It is something on which we do not see eye to eye with the UK Government. There is no question about that, it has been a market which we have been arguing with them about for several years. In the UK itself, in fact, there has been a number of recent moves in the direction which week have been urging. There have been moves in the UK on de-regulation and there have been critics in the UK on the basis that the UK over-legislates in areas related to Community law and puts UK businesses at a competitive disadvantage compared to French, or Italian or Greek or Germans, or anybody else. We have therefore put the case very forcibly to the United Kingdom that we believe they are entitled to require us to do whatever is mandatory under Community law, the meaning of the Constitution of Gibraltar in the distinction between defined domestic matters and foreign

affairs must mean that subsidiary has to apply between London and Gibraltar, the same as it applies between Brussels and London. Where within that freedom of action, as happened in 1991 with the 2nd Banking Coordination Directive, what the UK would like us to do to follow their practice rather than Community obligations is something that we do not think is going to hurt our competitiveness or create additional public expense or make unnecessary work and bureaucracy for the people who have to operate in the business climate in the framework of those loans, then there is no particular reason why we should not do it the way that the UK would like us to do it and by and large if we can please them we try and do it. Where we have got advice that tells us something different, we have got a political responsibility to argue the case with the UK based on the advice that we are getting, otherwise there is no point in us having the right to do something different if we cannot exercise that right without being accused of being anti-British or of wanting bad relations with them, all of which is complete nonsense. Why should any Government of Gibraltar go out of its way to have rows with the UK Government just for the sake of it, but we are not scared to have a row if there is a need to have a row because they will not listen to reason? And, of course, the other side of the coin of European Union membership, the side which we expect to see producing benefits for Gibraltar is that just like the UK is entitled to require us to transpose into our national laws Community obligations which we are committed to doing and have every intention of doing, they have a responsibility to ensure recognition of Gibraltar's competent institutions. There are some areas, other than in banking, where we have got a difficulty in that this has not happened and we do not know when it will happen and our ability to do business depends on it happening. Last year on the 1st of July, the United Kingdom brought in regulations to give effect to the Non-Life Insurance Directives of the European Union. We welcomed publicly the fact that at long last there was a piece of legislation of the United Kingdom (on the 1st of July) which actually said "A Gibraltar insurer is deemed, in the UK, to be an insurer licenced in another Member State" and therefore by definition able to passport into the UK. At the moment we have I think a potential in that area which has not yet been exploited and which runs the risk of going down the route of banking and going down the route of UCITS unless we can get things put in place and accepted by the UK quicker than has been the case before in those areas and it is an important area. Insurers could be an important user of white collar labour of the financial services industry, of accountants and lawyers and other professionals in that sector of the economy. At the moment we have,

regrettably, a situation where although one arm of the UK Government is urging us to transpose the Directive and indeed wanted it transposed by mid-January, another arm of the British Government is telling us not to transpose the Directive because they still have not made up their mind what they recommend the law of Gibraltar should say. We have got the law ready. We have actually pushed the button recently in bringing in insurance regulations in the non-life sector and the feedback that I have got from Mr Milner and the Financial Services Commission is that people in the DTI are very upset that we did this even though it is overdue and even though the Foreign Office is telling us that they want us to do it and that indeed they would have wanted us to do it a year ago. We have got at the moment a potential area of development and it is an area that is a high priority for us and sometimes in this business of where the priorities lie again we have disagreements with the United Kingdom because the United Kingdom might want us to implement directives in a particular order of priority for one reason which is important to them, because they may be under pressure from Spain and the environment or whatever, whereas for us, frankly, the priority is to try and bring in quickest the ones that are going to produce customers and bring activities which is natural. That is where our priorities lie to draw business to Gibraltar and to create jobs. I sincerely hope that we will be able to see within the next few weeks that the DTI is finally satisfied on this because this is one where there are actually some potential big customers waiting to come in. We have got a situation where I have had a number of meetings with people from the UK who tell me that simply on the fact that we are not inside VAT and that VAT is payable on services and that there is an insurance premium tax in the UK which was introduced recently, being able to write insurance policies in Gibraltar and being able to sell that to customers in the United Kingdom could be a very competitive business if, of course, they are able to use the Gibraltar licence to do that and it is enough that the Commission of Gibraltar notifies the recipient state. That is where it all hinges because for the Commission in Gibraltar to be able to say to the state in which the customers are "This is a bona fide insurer licenced by me and supervised by me" the recipient state must recognise the Commission. Our problem at the moment is not so much that they have to recognise the insurer because the insurer may be somebody that is a household name and is already well known. We are not talking about somebody sort of starting a home grown insurance company in Turnbull's Lane. We are talking about existing companies with existing customers who are transferring their customer base from wherever they are now to Gibraltar purely for fiscal reasons and purely because it is more tax efficient because that is

the commodity we have and it is a perfectly legitimate commodity because it is for that reason that they are going to Dublin and they are going to other places. So it is not that we are doing anything which is contrary to Community law or anything which is wrong or anything which is criticised other than of course in Spain where whatever we do is criticised. So if we can be sure that if an insurer comes to Gibraltar and is selling insurance in Spain not to pay VAT in Spain, the Spaniards will say that that proves what a gang of thieves we are in Gibraltar because we are helping somebody to defraud their Inland Revenue. That we know but we can be also certain that no other Member State will take this position because this is standard practice. So that is an important priority area where in terms of the Estimates of Revenue of the Government of Gibraltar and in terms of our protection for the next 12 months we are making no assumptions whatsoever because although we are have got virtually everything we need in place and what we do not have in place has been drafted and is sitting in London waiting for the DTI to say they are happy with it and although I could come along to the House or introduce legislation which is drafted and bring it in, the advice that I have got from the Commission is that to do that would upset people in the DTI and unless the people in the DTI are not upset they will not go the step of notifying other competent authorities in the European Union that Gibraltar has its own competent authority independent of the DTI. The potential customer in fact that has come to us has told us that they see an ability to market the product from Gibraltar into the United Kingdom, into Germany and into Portugal but that the indications that they have got is that irrespective of anything else they would not be allowed to market anything to Spain notwithstanding Community law. However, the advantages in the non-Spanish market are considered to be sufficiently attractive by this customer to want to come to Gibraltar provided we can deliver within a reasonable timescale. We have now been talking about this possibility for nine months. We were approached as a Government shortly after the news came out in the UK on 1st July last year about the creation of a single market where I wrote to the Financial Times pointing out that in fact although they had not mentioned Gibraltar in the analysis, Gibraltar was included in the UK legislation and that therefore that should be corrected to make sure that people knew that they could do the business from Gibraltar like they could do it from Luxembourg, Germany or anywhere else. That elicited a fair amount of interest which has led to my making a number of trips to talk to people in the management of captives and in other areas of insurance and it is clear that all the feedback that we have got is that potentially this could be a good business for us. We

hope that in the next month or so we will finally be able to get rid of the remaining wrinkles in the legislation to the satisfaction of the DTI and that this will enable our Financial Services Commissioner to proceed with notifying other authorities that the insurers operating from Gibraltar are licenced under Community law and therefore able to sell their products. As I have said, we do not expect this will happen in Spain and I think it is important that we must establish first that we are able to do it in other places so that we can demonstrate to the EEC institution that Spain is in the wrong in refusing to accept from Gibraltar what other Member States accept but at the moment we are not able to do it anywhere. Clearly, a development in this area in the next two or three months will be something that could start bringing a greater utilisation of the spare capacity we have in our infrastructure.

The whole area of services other than banking and insurance is one that is important and we have been recently, after lengthy debate with the United Kingdom, on the EEC Directive on direct selling, we have been able to establish that we are covered by that Directive and that we will be able to transpose it. This was one occasion where we wanted to transpose it and they did not want us to transpose it and we have managed to persuade them that distance selling is a service and therefore it is part of the single market in services and not part of the single market in goods in which we are excluded. Obviously, there are other areas in which we felt at one stage the United Kingdom could have pursued commitments given a very long time ago which would have enabled us to develop initiatives in the manufacturing side and in particular there is the question which we raised in a motion in this House where in 1985 in the context of the negotiations for Spanish entry into the European Union and the special privileges granted to Ceuta and Melilla, Baroness Young gave a written undertaking to Sir Joshua Hassan, of which I was given a copy I the joint EEC forum we had at the time, that if at any time the privileges granted to Ceuta were such that it put it in a better position than Gibraltar the UK would be able to go back and ask for us to be given the same treatment because the UK and reserved its position with the Commission in not vetoing what Spain was obtaining for Ceuta. In 1985 we were told "What the UK has done is not something that is important now because you have got no manufacturing industry, in any case, we do not think there is any advantage for you at the moment in what Ceuta has got but if at any time in the future that changes we can go back and argue the case because we have entered a caveat in minutes with the Commission. The Commission has acknowledged it. We have got sent a copy of the Commission's acknowledgement and therefore we will

be able to press for you to get the same treatment". The position of Ceuta in the European Union changed in 1992. We discovered this by accident because we saw the change published in the European Journal and we raised it with the UK. In simple terms what Ceuta did in 1985 was that although they are outside the Customs Union like we are, the goods they sold in Spain did not pay customs when they entered Spain but those goods paid customs if they moved from Spain to a third country in the European Union. We felt in 1985 and subsequently in Government in 1988 that it was difficult for us to argue that we should get in the Spanish market the same treatment as Ceuta and that politically this would be an embarrassing position to adopt because Spain would be able to say "Ceuta is Spanish, you want the same treatment you become Spanish" but in 1992 because the internal frontiers were being removed, Spain argued that there was no way of controlling the goods that went from Ceuta into Spain leaving Spain and going to somewhere else because there was no more customs control on the frontier in the Pyrenees. Therefore there was only two ways of dealing with the situation. Either Ceuta had to be put in the position we were of having to pay duty on the goods exported to Spain or everybody else in the European Union had to give the same privilege to Ceuta as Spain gave. When we discovered that we argued "This is a different position now because what you are telling me is that Ceuta can export to the UK duty-free from outside the Customs Union and I cannot do it. I accept that I should not be able to do it in Spain but I do not see why I should not be able to do it in the UK, never mind the other ten members, just looking at the bilateral relationship and of what we are supposed to mean to each other." It was on that basis that we made representations to the UK Government and in fact we brought a resolution to the House and we have pursued it again with them and I regret to say so far they have not yet made up their mind whether they should approach the Commission on this or not. I regret to say. But it is an area that would give us an enormous boost in our capacity to attract manufacturing business to Gibraltar. In fact, Ceuta had made very little of something that I consider to be a very, very lucrative loophole that has been created for it. They do not seem to have taken much advantage of it and the UK argues that the reality of it is that Ceuta is not exporting anything to them. They may not be exporting anything to them but they could. We could, tomorrow have a Gibraltar businessman setting up a factory in Ceuta and he would be able to export duty free to the UK and if he had a factory here he would not be able to do it and they are outside the Customs Union and we are outside the Customs Union and we feel this is wrong and we feel that there was a commitment given to the previous Government in 1985 and that it is not being

honoured. If at the very least they came back and told us "We do not really want to do it because we think it would create lots of problems and give us a big conflict and so on" then at least we would know where we stand but the position at the moment is that they are still studying the case to decide whether they pursue it or they do not.

Another area where we see possibilities of attracting new activity to Gibraltar has been in relation to retirement homes, particularly as a result of the release of MOD land and property. Again, in this area we see a repetition of the fundamental problem which it seems to me stems from the basic flaw of the 1969 Constitution and the entry into the European Union in 1972 without any attempt to reflect that in the Constitution. Although the Government of Gibraltar made some attempts prior to the Government of Gibraltar made some attempts prior to 1980, the British Government, on the signing of the Lisbon Agreement in 1980, refused to talk anymore about constitutional change in terms of the European Union and defined domestic matters. Clearly, Mr Speaker, if we were integrated none of this would arise and you know and I know that there were some of us who saw that as a possible avenue a very long time ago. But we are neither fish nor fowl. We seem to have all the lack of freedom of action that provinces in Member States have without any of the advantage of a domestic market that is large which is the counterpart for the loss of freedom. In a town in a nation, it is the central government that makes the rules, the rules are not made in the town but in that town one can sell to everybody in the nation on the basis of common rules. We do not have that in this particular area; we have a situation where the DHSS in the United Kingdom, up to a few years ago, were treating Gibraltar as another Member State for the purposes of health cover and then two years ago they changed their mind and their interpretation and they have issued new guidelines and this is no longer the case. It means that a UK national can retire to La Linea and his health care is the responsibility of the United Kingdom. He gets free treatment in Spain and the bill is sent to the UK where he has lived and worked all his life and paid his insurance and his taxes, but not if he comes to Gibraltar. If he comes to Gibraltar either we have to pick up the bill which we are not obliged to do or we have to require him to have private medical insurance which puts us at a competitive disadvantage. This is not something that is being designed as a Machiavellian plot to limit our ability to develop business, this is just one element in the bureaucracy deciding something which happens to be an interpretation that is hostile to our potential. It just so happens that lots of bits of the bureaucracy all seem to be doing the same thing and therefore our way of arguing is to say to the British

Government "It may be that it is true that it is a professional reading the letter of the law and coming to that conclusion but then there must be somebody that has the political will at the top to say to the professional "We want to help Gibraltar. We want to give it the same fighting chance to survive as everybody else has and therefore if you tell me that is what the rules says then tell me what we need to do to change the rule"". We have put the case and I can tell the House that the Minister of State at the Foreign Office that has responsibility for Gibraltar, Mr Davis, with whom I have got a very good personal relationship, has committed himself to fighting this case but the last time we discussed it he told me that the response at present is that the experts consider that this requires primary legislation and that time has to be found in the parliamentary timetable. Although we are continuing to pursue that avenue obviously there are two problems for us. One is that if we are able to attract people to retirement homes in Gibraltar as opposed to somewhere else it is a more expensive business because they would have to take out private medical insurance and private medical insurance for people who are in their late 60's is an expensive business. The other thing, frankly, is that we are a bit nervous about it because suppose the person does not renew the policy once they are here and they get taken ill what can we do? We cannot sort of operate in a small place like Gibraltar as if we were in the States and we say to the guy "When as if we were in the States and we say to the guy "When you arrive at the porters' entrance produce your medical insurance policy otherwise we pack you back into the van and send you away". That would be a very difficult thing and it would be a very unpopular thing and it would put us in a very invidious position but we cannot in fact encourage people to retire to Gibraltar if at the end of the day they are going to be a drain on public funds instead of net contributor to public fund. Our whole purpose of seeking to bring people here is that they would then be people who would be spending in Gibraltar income that they had obtained during their working lives and consequently would be adding to the pool of consumers in a way the service families used to be adding to the pool of consumers without going into the labour market in competition for jobs with our own people. Again, in the Estimates none of this is reflected in the sense that we are not making any assumptions that we are going to be any more successful in the next 12 months on this particular ticket than we have been in the last 12 months but I draw it to the attention of hon Members so that they can see that it is not that we are not trying and exploring different avenues. It is that, I regret to say, we come up against a brick wall more often than not and it all seems to relay back to the fundamentals of the membership of the Union and the interpretation of the rules of the membership of the Union in the relationship

Gibraltar/UK where unless there is in each and every case specific reference to Gibraltar being the same as any other Member State, then for UK purposes we are not in the European Economic Community. It is as simple as that. At one stage about two years ago I tried to persuade the British Government that rather than wait for me to bring up each individual case and then come back and say we need to change the law in the particular sphere they should consider amending the European Communities Act of 1972 which is perhaps something that if we had thought of it in 1972 we might have asked them to do so that in the primary enabling legislation there is a reference to Gibraltar being part of the European Union under article 227 and therefore deemed to be a Member State for the purposes of UK legislation. I do know if it is possible. I do not know enough about legal drafting but it just occurred to me that it was one way of achieving the same result across the board and then they would only have to find time once in the parliamentary timetable. I regret to say although they listened carefully to my arguments I have had no indication that they are prepared to move in that direction and they have not told me whether it is that they do not want to do it or it is that they do not think it is possible technically to follow that route. Clearly the relationship with the UK in our view is one where much more could be done at zero cost to the UK, to make it more probable that we would be able to be more competitive and more attractive in the UK market where we want to compete because it is a natural market for us. I think, logically, there is a certain natural market on our doorstep geographically and there is a certain natural market 2,000 miles north culturally, linguistically and in terms of professional contracts and training which we have not tapped and it ought to be easier to tap the market with which we have been associated for 291 years than the market of which we were part the preceding 203 years. Therefore, our emphasis is to try there first. Obviously, the one on our doorsteps is one where they write the rules as it suits them when it suits them and although I welcome the more direct language that is being used by Mr Davis and by the Foreign Secretary which is a reflection of what they have told me privately. They have said publicly what they told me privately, that they tend to be more robust about pressing the case we will have to wait and see just exactly what being robust means to Anglo Saxons. It may not be the same as it means to the Mediterraneans. Nevertheless we believe and have urged upon the UK that it is the kind of language that is more likely to produce results frankly than what they have been used to doing since 1984. We cannot escape the fact that we think that at best the 1984 deal with Spain for the lifting of the restrictions in Brussels, at best was a serious misjudgement, and at worst it was a total

betrayal of the position we had maintained consistently for 15 years and one month. I can never, for the life of me, understand how you resist for 15 years and one month and then 11 months before the other side has to capitulate they are given a way out. I just cannot understand how one arrives at that except that the way it was sold in Gibraltar at the time publicly and to an even greater degree privately was to say "You have got to understand that if we forced Spain by the weight of Community law to re-open they will not re-open in as friendly an atmosphere and therefore the relationship is not going to blossom so it is really a cosmetic exercise if you like, to get them off the hook and it is a face-saver for them." They do not seem to have understood that that is what it was. They seem to be under a completely different impression and they seem to think that they got us off the hook in 1985 and that we have not delivered. We have always argued with London that diametrically opposed perceptions of what one is doing is a sure receipt for disastrous relations in the future because we consistently believe that the Spaniards have not honoured what they signed in Brussels and they consistently believe that we have not. At the end of the day the facts speak for themselves and it is all very well for the UK to tell us they are going to be very tough about the Schengen business and about the ID card business and about the queues and so forth, but why do not they start getting tough about the Algeciras ferry, for heaven's sake which they signed an agreement on twice? They signed an agreement in 1984 saying the ferry starts on the 5th of February 1985 and the law was passed and the ferry never left the moorings and then they signed another agreement in 1987 saying the same as they had said in 1984 and we are now in 1995 and there is not a remotest sign of the ferry appearing over the horizon. So instead of going to battle about what is happening now, why do not we go to battle over what happened then where presumably these agreements and if they do not require to be honoured then let us say "We are now tearing up the 1987 agreement which is never going to be implemented on the airport," and if we have to have some kind of agreement let us start from scratch because at the very least we will remove from Spain the propaganda weapon every year in every forum that the British Government signed an agreement with them and that the Government of Gibraltar is blocking it. Of course, with all this business of the British press reflecting apparent threats of direct rule it does not take a genius to come to the conclusion that the Spanish would sooner or later say to the UK "If you are able to impose EEC legislation on an all crimes basis how is it that you are not able to impose the 1987 agreement which is an international

agreement between you and me?" which is not a defined domestic matter. The House of Assembly has no jurisdiction in international agreements. We have already accepted that. What we do not accept is that they can go beyond international agreements. We cannot divorce the mishandling of our external affairs from the ability to develop and exploit our economic potential and therefore we came to the conclusion in 1992 that having put in place the investment that was required we now have to switch our attention to developing the constitutional relationship. I said in the House immediately after the election that I hoped this House would be remembered as having ushered in the end of the colonial period. It seems to me sometimes as if we are facing in the opposite direction and sometimes we seem to be facing situations which pre-date the 1969 Constitution and pre-date the 1964 Constitution. I have to go back to the 1950's to find anything like it. Certainly, the Government of Gibraltar will not play ball and that does not mean we do not believe or want to work in close cooperation and consultation with Her Majesty's Government in resolving the areas where there are differences. We do. I subscribe entirely to the statements made by Douglas Hurd in the press conference after the meeting with Solana where he said to the press that there was no question of any threat of direct rule and that he wanted to work in close collaboration with me to try and resolve this issue. I want to work in close cooperation with him but as far as I am concerned if close collaboration means that he tells me what to do and I stand up here as if I was guided by remote control and when he presses the button I start telling the House what he wants to hear me tell the House, then I am afraid that is not going to happen. It is not going to happen now, it is not going to happen in four weeks' time, it is not going to happen in a year's time and it will not happen as long as I am sitting here. If they want somebody that will do it and if they had somebody that did it, and I am not privy to sufficient internal information to know whether they had or they had not, all I can tell the House is that from where I stood there and from where I stood there was a puppet on a string, but I might have misread the signals. But certainly if that is what they had and that is what they miss then I am afraid they will have to do it without the GSLP. We sincerely hope it will not come to that and we sincerely hope, Mr Speaker, that we will be able to work together with the British Government over the next few weeks to resolve the one area of difference we have. We want to get on with the job of getting rid of the backlog of EEC legislation during the course of this year. We want to get on with the job of running the affairs of our city and we want to get on with the job of taking them to the negotiating table and decolonising our

country and certainly whoever it may upset in the process we will pursue the struggle for self-determination and for decolonisation in the United Nations and wherever we need to do it unrelentingly, irrespective of the effect it may have on other things. This is a fundamental matter which goes to the very root of the existence of the party and of the right to our land and of the feeling that made Gibraltarians Gibraltarians when they came back to Gibraltar after the Second World War. To do that we need to be able to pay our way and we believe the Government are being honest and sincere with their own workforce and with the population in the leadership that we are giving in producing a strong and a viable economy which is still in a more solid shape than it was in 1988 in spite of all the difficulties that I have explained.

I commend the Bill to the House.

MR SPEAKER:

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

HON P R CARUANA:

Mr Speaker, during some part of his rambling address the Chief Minister asked a rhetorical question which I now intend to answer. He asked when he was in the midst of blaming the British Government for all his woes and clearly they have some blame for some of his woes but he asked the rhetorical question would it have been different with another Government? And I have to tell him sincerely that I believe that the answer to that question is yes because what the Chief Minister does not appear to realise is that one could be agreed as to what one is entitled to, that one can be agreed as to what one wants to achieve but have different views about how one is more likely to achieve it. If the Chief Minister thinks that he can maximise what he achieves for Gibraltar politically and economically by picking a fight head on with the British Government on mischosen issues, the answer is that he cannot and will not and then we will both be disappointed because of course we both wanted the same thing. I believe and he knows that I have said this before, that he has presided - I say this in the full knowledge of those obstacles that have been put in his path only some of which he has related to us here today for the umpteenth time - notwithstanding that, over the mismanagement of the relationship with the British Government. I do believe that some of the difficulties that he and therefore we all face in Gibraltar today with him are the result [Interruption]. No, life is not black and white. One does not either have to be a poodle or provocative [Interruption]. No,

no, because the Government Member is sitting there saying because Sir Joshua ... [Interruption]. No, therein lies his mistake. He thinks that he is either a poodle or a combatant and therein lies his error. I believe, I really do believe that another Government with the same set of legitimate aspirations for this community, many of which he knows we support, even though I say now we would go about trying to achieve in a different way. Many of those aspirations would now be more advanced if there had been a little bit more of what in Spanish they call left hand, and a little bit less brinkmanship and trying to win battles which were unwinnable. It is a matter only, he will say, of approach. I believe it is a matter of approach but I answer his rhetorical question because he has asked it. I really do believe that he has contributed in large measure, but not as the only contributor, certainly, but he has contributed in large measure in the management of the relationship, in the management of the attainment of our aspirations, he has contributed in large measure to the fact that we have reached the impasse long before he used to advocate it was safe to reach it because I remember before I entered politics the Chief Minister used to say something, I will never forget it, and I always used to say, he is absolutely right. What he used to say was until we have a viable, sustainable, self-sufficient economy we cannot push at the frontiers of our political and constitutional development. What has happened is that he has abandoned his own good advice. He has panicked because he has mismanaged the relationship and he has had to abandon that prudent position. He has had to abandon it sooner than he himself advocated it was safe to abandon it because whatever rosy picture he may try to paint here today, clearly he has not been out in the street for some time, about the state of our economy. Not even he can believe that we have today the sort of economy that he meant back in 1984/85/86, 1988 even when he used to talk about a self-sufficient economy.

Mr Speaker, many people that operate in the real economy, in other words, those of us that have to earn a living out there in the street, for whom the economy is not just as it appears to be for the Chief Minister, the state of his Government's finances, many of those people out there in the street today will be gravely disappointed that in three or four hours of mostly irrelevant waffle reminding us all about what his party did in 1988 with GSL, as if that was in any sense germane, relevant, to the issues facing the economy today, many of those people if not all of them will be extremely disappointed that he has not addressed a single one, not one, of the issues which the business community out there upon which by his own admission this economy now depends, are worried and concerned about. Their problems, the problems facing the

private sector economy which he said is absolutely crucial to our survival and with which I agree. It is certainly extremely interesting to hear the Chief Minister explain the progress that he has made in the arrears of PAYE. It is not unimportant. It is certainly interesting, albeit a little tiresome, to listen to him explain in sort of first year constitutional law student terms what the relative growth in society is of the elected Government and trade unions. It is also tiresome to listen to him go on and on about the question of Government borrowing and who asked him? He keeps on saying that people need to be reminded. Who asks him to explain in nearly 40 minutes this whole business of the Social Assistance Fund which he said he was going to the trouble of explaining again it was still an issue? I have made a careful note of it. "It still seems to be an issue." I do not know with whom he thinks he has that issue. I have never said anything about the Social Assistance Fund. We have never done political battle against the Social Assistance Fund. Yes, we have commented on the fact that certain of the expenditure that is now met out of the Social Assistance Fund is no longer reflected in the detailed budget of expenditure which we now have before us today and that is an undeniable truism but that is not an issue about the purpose of the Social Assistance Fund. If I did not know him better I would have thought that he was [Interruption] for some reason or other he did not want to finish until just before the debate on the motion on the adjournment that we are having this afternoon. I could come to no other conclusion as to why he has gone on, and on, and on on those issues.

Mr Speaker, before commenting on those aspects of Gibraltar's economic policies upon which the Chief Minister has said absolutely nothing, there are one or two issues that I wish to address because this is the right moment to do so given that the House, as watchdog of the public purse, is concerned to ensure that the appropriation mechanism by which this House, as a matter of constitutional law, is required to approve every item of expenditure in the budget is not abused and circumvent. I would like to place on record, Mr Speaker, a quotation from a report that I know the Chief Minister does not enjoy reading but of course, you see Mr Speaker, sooner or later he is going to have to understand that not everybody that disagrees with him is either a traitor, an idiot, a fool or simply unknowledgeable. There comes a time when there are people who say things in unison and even the Chief Minister of Gibraltar, in his full arrogant flight, one day will have to stop and think "Well perhaps it is not that I am right and that they are all wrong, it might be that they are right". Professor Arronovitch, who came to Gibraltar and of

course for the record for Hansard let us put on record who Professor Arronovitch is. Professor Arronovitch is a professor of economics. Not a humble ignorant lawyer who does not know one end of the balance sheet from the other as the Chief Minister would have everybody believe is the case with me. This man is a professor of economics infinitely more qualified, I have no doubt, than the Chief Minister in matters of economics. He came out to Gibraltar. We are to take at face value the fact that he says that he conducted an independent. Of course, the fact that he comes to conclusions with which they are not happy does not make his report independent. His report would not have been independent if he had come and spoken only to me but apart from coming to speak to me he went to speak to several of the Government Members and indeed I believe that the Government's economic policy and economic strategy gets a pretty good hearing in that report and a pretty accurate exposition. So when he does say things that is not music to the ears of the Government Members they ought to stop to think whether it might be true. I quote him "What seems to be painfully clear is that the opportunity and mechanisms need to exist for much more detailed scrutiny of Government finances by the House of Assembly, more information, less delay in publication and public availability of accounts of privatised and joint venture companies, the lack of a public accounts committee and the 18 months' delay in publishing the Principal Auditor's Report after the end of the financial year should be remedied". There are items there which I have been harping on to the Chief Minister's chagrin for some time. It is therefore a matter of some satisfaction to me that an expert comes from abroad, without the need to wrestle with him for votes, that comes to say in his independent report, that these things are painfully clear to him. Mr Speaker, the fact that since the Government came to power in 1988 the public accounts of Gibraltar and the Principal Auditor's Report now take 18 months from the end of the relevant financial year to be laid before this House, as opposed to the previous 12 and that therefore by the time that I get this, this document is so much more historical that it almost seems worthwhile taking up the issues that it says on it because after all they relate to 18 months' ago, that is not going to prevent me from putting on record comments that arise from it. Because for me to omit to do so would be to reward the Government Member's strategy with success.

I say, Mr Speaker, that in our capacity as scrutineers of Government and public finances and as holders of the sole constitutional power to authorise expenditure by the executive there are matters raised by the Principal Auditor in his report attached to the financial accounts of the Government of Gibraltar for the year ended 31st

March 1993 which are a matter of concern to us and should be a matter of concern to this whole House. I would go so far, Mr Speaker, as to comment that the Principal Auditor's Report constitutes a catalogue of informality, improper accounting and illegal expenditure of public funds. I will now proceed to demonstrate it, not by any analysis of mine, but by unambiguous statements of the Principal Auditor in his report attached to the accounts. Mr Speaker will give me an indication when it is 4.30 p.m. to save me looking at my watch.

Mr Speaker, the first point that the Principal Auditor alerts to and frankly in my opinion it is not amongst the most serious that I am going to make but still is one which is of concern because there has to be an explanation and I would like to know what it is. The Principal Auditor says at paragraph 3.1.2 on page 13, and I quote "There was a significant difference between the opening balance of the Consolidated Fund on the 1st of April 1992 as shown in the financial statement included in the 1992/93 Estimates, which was quoted as £6,577,813 and the revised which appeared in the 1993/94 Estimates which is shown as £7.686 million presented to the House of Assembly on the 26th of May 1993". That is to say March, April, May, almost a full two months after the end of the financial year 1992/93. "This is explained by the fact that although the 1991/92 accounts were closed by the Accountant-General for submission to me on 31st of December 1992." In other words the accounts to March 1992 were closed for submission to him in December 1992. "adjustments continued to be made up to the 20th of July 1993 on which date the books of account were finally closed, i.e. just before the presentation of my report on the accounts to the Governor on the 22nd July 1993." This is a man who is saying I have the statutory duty to audit the public accounts of Gibraltar. "They are given to me in respect of the year ended March 1992. They are given to me in December 1992. I start my process of audit and two days before I hand in my report to the Governor on those accounts which I am supposed to have audited, that is to say 12th March, one month after the end of the year in question, two days before I am about to give this thing to the Governor with my audit, they are still making adjustments and changing figures here and changing figures there." I want to know, Mr Speaker, what kind of control this Government maintains over public expenditure. I want to know what kind of book-keeping system this Government maintains that requires them one month after the end of an accounting period to have to adjust entries in the accounts which result in the starting balance of the Consolidated Fund being different from what it has been previously stated to be on two occasions. Mr Speaker, certainly I am prepared to recognise that there may be a need to adjust accounts and

to make entries and to shift entries in an account of a period after the period ends but 16 months. Mr Speaker, perhaps the acid test of my question is this, how could the Principal Auditor possibly have audited the adjustment made to the public accounts of Gibraltar for the year March 1992 if those adjustments were made two days before he handed the accounts and his report to the Governor. In case anyone should think that this is an isolated incident and that it happened only in relation to the Consolidated Fund, at page 20, paragraph 4.1. the hon Members will see that the Principal Auditor had the same difficulty with the Improvement and Development Fund. The Principal Auditor says, and I quote him "Hence as shown below there were significant variances between the estimated and actual revenue and expenditure figures provided in the 1992/93 and 1993/94 Estimates, these being more notable when a comparison is made with the revised estimates given the date of their submission to the legislature." The Principal Auditor goes to the trouble of setting out a little table in order to graphically demonstrate the point that he is making. We have a situation where in respect of the opening balance of the Improvement and Development Fund, we were told in the Estimates of 1992/93, given therefore April or May of 1992, that the opening balance was a deficit of £293,567. By the end of the year in the following year's Estimates that figure of a deficit of £293,567 had been revised after the year to a surplus of £888,000 odd. It then turns up that the actual opening balance by the time the accountants had picked the books was actually £1,040,000. There are three different stated opening balances. The same discrepancy in relation to expenditure and therefore obviously the same discrepancy in relation to closing explanations about this expenditure that was scheduled to be taken into one year, it did not fall in that year, and fell into the next one but these discrepancies arise in relation to the accounts of March 1993. How can there be this discrepancy between revised estimates in May 1993, which is already two months after the end of the year which ended in March 1993 and the actual figures given that by May the year had already ended? By the 26th May 1993, which is when the estimates for 1993/94 were tabled in this House, surely by then the Government knew whether they had collected £44 million or £34 million and whether they had spent £43 million or £32 million. We are not discussing minor sums of money. There must be a record on which these expenditures are recorded. Somebody must know by May 1993 whether in the year ended March 1993 the Government spent £43 million or £32 million of the Improvement and Development Fund. Then he goes on to say exactly the same thing as I have already read out. "The discrepancy in the opening balance of the Improvement and

Development Fund at the commencement of the 1992/93 financial year is, as already mentioned, explained by the fact that though the 1991/92 accounts were closed for submission to me on the 31st December 1992, adjustments continued to be made up to the month of July 1993, i.e. just before I submitted the accounts to the Governor on the 22nd July 1993". Exactly the same points that the Principal Auditor is making in respect of the Consolidated Fund and the Improvement and Development Fund.

MR SPEAKER:

I think now the Leader of the Opposition should move the adjournment. I will make a very short explanation how this is going to work. The Leader of the Opposition would move the adjournment to next sitting. I propose it. He then starts the discussion. He can only speak for 40 minutes at the most but if he does speak for the 40 minutes then he can get no reply. I think it is in the interests of the proposer of the motion to allow time for him to get a reply. After that I put the question. If the question is carried then we adjourn until the next sitting. If the question is not carried then I will decide when we sit again this afternoon. Will the Leader of the Opposition please move the adjournment?

MOTION FOR THE ADJOURNMENT

HON P R CARUANA:

Mr Speaker, I have the honour to move that this House be now adjourned to the next sitting.

Question proposed.

HON P R CARUANA:

Mr Speaker, the people of this community have received with a large measure of anxiety and concern what appears to be a repetition of a situation that we first encountered at the end of 1994 following the September meeting between the Chief Minister and the Foreign Secretary, Mr Douglas Hurd. There is a perception in Gibraltar which I think is entirely justified by the information that has so far been given and what the people in Gibraltar have read. There is a perception that there is impending constitutional crisis. That there is a threat of direct rule although of course that phrase is bandied about perhaps in an untechnical sort of way but some sort of British Government intervention in the government of our affairs. Those concerns which are real are magnified by the fact that this issue coincides with what is unquestionably a premeditated restoration of

the campaign by Spain to tighten the screw at the border and therefore maximise the economic, psychological and indeed political pressure that it feels that it can put on Gibraltar. At a time when we are calling upon the British Government to do their duty - we are not asking the British Government to do any favours - but certainly at a time when we are calling upon the British Government to do their duty in relation to that and also in relation to Gibraltar's political future generally, there is a feeling that this is not the time to pick fights with the British Government that can be avoided and that can be avoided, is an essential part of the philosophy of the position that I want to put to this House today. What is at stake here is the quality and nature of our relationship with Britain. What is at stake, if the people are to believe what they are being fed in the press and indeed what appears to be confirmed by some public statements by British Government Ministers, is our hard won constitutional rights of the past. Constitutional rights which we seek to advance on and not to have diminished. What is at stake is a possible constitutional crisis that may or may not lead to direct rule. What is the issue upon which the people of Gibraltar should judge what their own position should be in relation to the apparent crisis? I am sure the Government will not want to deny, indeed I think the Chief Minister has himself said on several occasions that the situation is serious, that they take the threat seriously, that they have taken steps to pre-empt and prevent whatever the British Government might want to do. So we are not talking hypothetically here. We are talking about a situation which is upon us or which might be upon us at any moment of somebody else's choosing. The situation is serious and the people are entitled to be worried about it and I tell this House that in my judgement the people are worried about it. What is the issue? Well, Mr Speaker, again we can only go by what we know in public. We all know what the Chief Minister told us when he came back from that September 1994 meeting with Mr Hurd, that he had been given a list of items. The Foreign Office's position appears to be succinctly reflected in the press release that they issued on the 16th of May 1994 following upon Mr Hurd's last meeting, with the Hon Mr Bossano on that day. For the sake of the record I would like to quote the full text of that press release on Hansard. "The Foreign Secretary yesterday met Mr Bossano, Chief Minister of Gibraltar, who was passing through London on his way back from the Far East. At their last meeting in September 1994 the Foreign Secretary handed to Mr Bossano a list of measures on which action was required to ensure good government in Gibraltar and its compliance with EC legislation. The United Kingdom Government has been in close contact with Mr Bossano since and provided help with the drafting of

relevant legislation but there has been insufficient progress. The Foreign Secretary made clear that the present situation could not continue and identified priority action which was needed over the coming weeks. The Foreign Secretary and Mr Bossano also discussed a range of issues of mutual concern including the delays at the frontier".

MR SPEAKER:

Is that a Hansard or are you quoting from a newspaper?

HON P R CARUANA:

Mr Speaker, it is a Foreign Office press release and therefore it is quoted in the press.

HON CHIEF MINISTER:

Is that the report in the press or has he got headed paper of the Foreign Office?:

HON P R CARUANA:

I am reading from the report in the local press. I have to say that now I am speaking only from memory and subject to being corrected. I have also read the text of the Foreign Office's press release and from memory, there is no substantial difference but if there is no doubt the Chief Minister will clear it. Therefore it follows from the statement that the Foreign Secretary made clear that the present situation could not continue and identified priority action which was needed over the coming weeks, that something may be imminent following the passage of a few weeks whatever that length of time might be. We know that there was originally a list of 51 issues, some of which presumably we have been implementing and have been implementing or been implemented since September 1991. What I say is that it is not acceptable for this community to go forward to the brink of a possible confrontation on a constitutional matter with the United Kingdom in ignorance of what those measures are, because I do not forsake my duty as a legislator of this community, as a member of this House of Assembly, to preserve the legislative autonomy which I think the Constitution gives us and which we all should seek to defend. I do not wish to see and will not countenance the imposition of direct rule by the United Kingdom Government. In other words, certainly I will be no part of it and I will take the view that it has to be a constitutional crisis of the gravest order which so far, as far as the information I can see is concerned, is not the case. The UK's position as put to me by His

Excellency the Governor and the Deputy Governor at a meeting that I held with them earlier this week,....

HON CHIEF MINISTER:

I do not think, Mr Speaker, that is correct. Surely, the Governor made clear to him that he was not speaking for the UK?

HON P R CARUANA:

Mr Speaker, the British Government's position as explained to me by the Deputy Governor and also by His Excellency the Governor who was then explaining to me what the British Government's position was, is this. Because they are responsible for the transposition into Gibraltar law of European Community directives they wish to be satisfied that it is effectively implemented. In other words, the judgement whether this House has gone far enough in successfully implementing or transposing EU Directive in a manner that ensures its effective implementation is a matter of judgement for them and not a matter of judgement for us. Mr Speaker, that I recognise raises certain issues that have to be addressed constitutionally with the British Government. The Chief Minister has already alluded to that issue in his earlier address. He has alluded to the dichotomy that exists between that situation and our own defined domestic matters and legislative autonomy for it. I recognise this position and that is a position which I will go to London with the Chief Minister to defend but what is not acceptable, I believe, to the majority of this community today is that we should seek a constitutional crisis over particular items of legislation in respect of which the legislative autonomy of the House may not be abstained. I want to see and the people of Gibraltar want to see the list of 51 measures to see the extent to which it contains items which we simply just ought to be legislating and forgetting about because after all if we do not have fresh water rivers flowing into fresh water fish farms why should we be concerned about implementing a directive that regulates that position. I also want to see the list to see the extent to which it contains measures on which it is necessary to put up a fight. I also want to see the list to see if the Government of the United Kingdom shares my definition of good government or has a completely different one but that does not address any of the issues that concern me domestically. The reason why the people of Gibraltar want to see that list of 51 items is that we want to judge the extent to which these 51 items require the crisis to occur. I say to the Chief Minister that what we ought to be doing is diffusing this crisis if the list of items on it is uncontroversial and then we ought to go to the United

Kingdom Government, the whole 15 members of the House of Assembly if necessary and anyone else that wants to attach to it and deal with the question of the constitutional dichotomy that has arisen in relation to the legislative autonomy of this House and the United Kingdom's obligations under the European Union. I told the Government Members that this community does not want to be led blindly into a potentially catastrophic stand-up political battle with the United Kingdom at this, or I suspect, at any other point in its history at least not whilst the real threat comes from Spain. It was also put to me, at my meeting at the Convent the other day that whereas the question of the 51 items on the list was certainly an on-going matter upon which the Foreign Secretary had said there had been insufficient progress and that urgent action was identified as required that, at present, attention in London is focussed on the one item which is this business of the extension of the money laundering laws on an all crimes basis. Hon Members know because I expressed my views at an earlier debate in this House that I consider that there are issues that affect or might affect the finance centre which need to be taken into consideration when agreeing to that. But certainly Mr Speaker what I was told in the Convent was that the British Government had a desire to sit down with the Gibraltar Government and work out a formula for the legislation that addressed both the United Kingdom's concerns in relation to drug money laundering and - I use the phrase ring fenced - our finance centre from the concerns that I had expounded in the House before. What I say to the Government Members is this. If that is true, if it is true that there is a possibility of consultation to arrive at a position where both the interests of the United Kingdom and the interests of Gibraltar are adequately addressed and protected, then what we must do with that one issue which is the one that appears to be the focal point of the immediate crisis without saying that the others will not become a crisis if we do not get on with them, as well but certainly it was made perfectly clear to me that the crisis was presently focussed on that one issue. If that can be resolved to our satisfaction by a process of discussion with the United Kingdom then I would urge the Government Members to take that route and not use this one item of legislation which can be resolved to our satisfaction as the stalking horse for some premeditated political battle with the United Kingdom which they may wish to have for other political reasons.

Again I put it to the Government Members what I said in my opening remarks on my address on the Appropriation Bill. The issue here is not what we are entitled to, the issue here is how best to achieve it. In my opinion we do not best achieve persuading the United Kingdom that

they must respect the legislative autonomy of this House by engaging on an unnecessary and unwinnable battle because if the British Government is willing to discuss this issue with us, then it is not a necessary battle. Whether it is necessary or not I believe that the battle fought in this confrontational manner and blind, because the people of Gibraltar will not support the Government Members in a blind battle, is unwinnable. Therefore, the position that I am putting to the Government Members is one that this community cannot at this moment afford and does not want a stand-up constitutional battle with the British Government. But that if there is an issue which is one which is so fundamental to us, as for example it would be that we should not go backwards constitutionally, that we all subscribe to, then before taking us into battle on that issue the Government Members have got to exhaust all possible avenues which include informing the people about what the issues are, informing the people about the 51 issues to see if the issue that needs to be defended really does arise and expanding the participation in the lobbying and discussion process with the United Kingdom beyond the occasional and secretive meetings between himself and Mr Hurd. It is not good enough that we go into constitutional crisis on the basis of three dinners between the Hon Mr Bossano and Mr Hurd about which we only get to discover what the Chief Minister chooses to tell us and in the manner in which he chooses to tell us. If it becomes inevitable to do in this community what most people do not want to happen but if for some vital interest of ours it became necessary to do it, I think that the least that the Chief Minister should do is arm us with the maximum amount of information into it so that people can form their views and go in with open eyes.

Mr Speaker, the issue of confidentiality is one enormous red herring. There is nothing confidential about a list of 51 laws which we are led to believe during the next 12 months are going to find their way on to our statute books anyway. Or is there anything on that list that the Chief Minister does not want us to see? The British Government have got no objection to the Chief Minister making public the list. Mr Davis said, and I quote him, "We have had our discussions with Mr Bossano about things that need to be done. He knows it is a serious discussion. We are serious about what needs to be done". Then he went on to say "If the Chief Minister wants to announce this he can do so but for the moment it is for him to think about it". In other words, the British Government have got no objection to him making this list public. If he chooses not to make it public he will have to explain to the people of Gibraltar what vital interests there are that require him to do that or is he now, having spent all morning painting the British

Government as the nigger in the woodpile, is he now going to rely on the fact that it is confidential for the British Government not to do it. In other words, does he regard that there is some issue of confidentiality which is more important and which overrides the possibility that we might find ourselves in grave constitutional crisis? The people of Gibraltar have a right to know. The people of Gibraltar want to know and I add to that that the people of Gibraltar need to know. Mr Speaker, I am told by my acting secretary that 22 minutes have elapsed and I was anxious to give the Chief Minister maximum time. The purpose of this debate is not for me to put to him my views which he has heard already. The point of putting down this motion was to give the Chief Minister an inescapable opportunity to explain what his Government's position is on this issue.

HON CHIEF MINISTER:

Mr Speaker, I would like to start by making clear that I think I represent the people of Gibraltar and not the Opposition Member. Therefore I do not accept that he speaks for more than a minority of the people of Gibraltar, the minority that voted for him the last time which I hope will be considerably reduced the next time round, so we will not have to put up with him at all. It is obvious, that notwithstanding the fact that I made clear that only one issue was raised by the Foreign Secretary as a priority area on which they wanted me to act, it is only when the Governor has told him the same thing that he has believed him because of course he believes what the Governor tells him and not what Joe Bossano tells him who is merely the local guy from the backstreets who made it to Chief Minister after 16 years. That is understandable. This is why he will not be a poodle. I do not think he will even make a Pekinese if he ever were to be in a position of having to defend the Gibraltarians against any onslaught from the British administration which is, of course, not the British people or the British Parliament because at the end of the day although as the hon Member says all I have had is three dinners with the Foreign Secretary. Secret dinners I suppose I will have to see if the Foreign Secretary will allow me to publish the menu. The position is that I imagine part of the reason why they lure me to these dinners is because they think that I will be overawed by having a private dinner with the Foreign Secretary and somehow that will alter my response. It does not alter my response. I say no to the secretary and I say no to the Foreign Secretary and I say no to whoever I have to say no unless intellectually they can convince me that what they want us to do is something (a) that they are entitled to and (b) something that is for the good of Gibraltar. The British Government consider that good

government measures are the implementation of Community obligations in the areas they want and in the way they choose. I do not believe they are right and I think that the fact that they believe that if they are going beyond the letter of the requirement and therefore they cannot use the mechanism of extending to Gibraltar an international obligation which is the mechanism they tried first then, they can rely on section 7 of the Constitution where laws can be made for the good Government of Gibraltar. Since the foreign Secretary knows that if we get to that stage, which I hope we will not, we intend to seek judicial review in the UK then we will have to demonstrate that it is for the good government and therefore they start off by calling the measures good government measures. The Opposition Member has chosen to concentrate on the letter of September notwithstanding the fact that he knows that there is no dispute over the letter of September. The only thing about the letter of September is that the degree of progress is not fast enough to satisfy officials in Whitehall who have then gone presumably to the Foreign Secretary so the Foreign Secretary would impress upon me the need for faster movement on the outstanding list of directives which we have not disputed. We have said yes, we will implement them. We have implemented a quarter of them to date and they think a quarter is not enough. I have told them that the target will be to have the remaining three quarters by September this year. We are talking about a situation where we have got 50 that they give priority to out of 100. There are still another 50, we hope to have done by the end of the year. In some of them we are not able to move because they do not agree with our drafting and we have got a problem in that it is not enough to implement, it is not enough the Commission should be satisfied on top of that we have got a situation where I gave the example earlier on of the DTI, on the one hand the Foreign Office has got on this list or urgent directives the 3rd Non-life Insurance Directive and on the other hand the commission is telling me not to do it because the DTI does not want it done yet until they are happy. The fact, Mr Speaker, that we have people worried is a reflection of what has appeared in the UK press. That does not stop the Opposition Member saying we wish to have a conflict for other political reasons. It does not stop him saying that I am painting the British Government as the nigger in the woodpile. Mr Speaker, when I had the meeting with Douglas Hurd in September, as I explained when I came back, and as the press release he did not quote this time, was the press release of the 21st of September. The press release of the Foreign Office on the 21st of September was that we had had a very useful, cordial and positive meeting. That was the Foreign Office press release of the 21st of

September and not the 50 items on the list. He does not quote that now. Why not? Because it does not suit his political motives to quote it. What happened the next day every single UK newspaper said I had been reprimanded by Douglas Hurd. The day after every single Spanish newspaper said how wonderful that Douglas Hurd had reprimanded Joe Bossano. I say there is a dirty tricks campaign and he said "you are making the UK the nigger in the woodpile". If I am not the nigger in the woodpile and he is not the nigger in the woodpile and Braña is not the nigger in the woodpile, somebody must be the nigger in the woodpile or is it that by some stroke of telepathy every newspaper in the kingdom decided to invent the same story the same morning? I can tell the hon Member I had a meeting with David Davis. It was the first meeting we had in September. It went extremely well. I was very happy with it. I had already spoken with Francis Maude who is a close friend. David Davis said to me he wanted to have a meeting alone with me, without officials, off the record. We had an hour and a half together. I then went and saw the Foreign Secretary, we had three quarters of an hour together. He gave me this letter at the end of the meeting which I did not have time to read and I put it in my pocket. I went off to dinner with Neil Kinnock and I finished at two o'clock in the morning. I spoke to GBC between the two events and I confirmed to them what the Foreign Office had told me, that the meeting had been very fruitful, very cordial, they were concerned about the delays. I promised them we would do our best. I explained to them we had limited resources, lots of pressure on the time available to the civil service and to Ministers, that we could not responsibly simply publish laws without knowing what it was we were doing, however much they wanted us to do it. That we had to look at things ourselves to make sure we understood what legal obligations we were putting on people. That is what happened on the 21st of September and before I had a chance to read the letter and the list of the things which he just mentioned en passant, he did not specify what it was that they felt was more important, I read in every morning paper that I had been reprimanded and that I had been given a ticking off and that ... I do not like that, Mr Speaker, and therefore what I did was I wrote a stinking letter to the Foreign Secretary. This is not me looking for a conflict. This is not me wanting bad relations with UK, this is me being me, Mr Speaker, and people knew what I was like when they voted me in and if that makes me unsuitable to be the Chief Minister of our country then we will have to pick somebody else. It is as simple as that but I am not picking a fight with the British Government and the hon Member is doing a great disservice to the 20 per cent that voted for him by trying to take political advantage of every occasion to say the bad guy is always Joe

Bossano. [Interruption] That is the issue, not the letter of the 21st of September. I will tell the hon Member why. In December having already sent copies to Douglas Hurd of the Drug Trafficking Regulations so that he could put them in front of Solana and demonstrate that we had moved without waiting for the meeting to take place, having already done that, an article came out in the UK press quoting an unknown senior Whitehall official who said that direct action leading to direct rule was now only weeks away. That is what the newspaper said in the UK at the time. I said, in response to that, we have to take the threat seriously and we have to act as if it is real. What does he expect me to do? Notwithstanding what the UK papers say which the UK papers say is due to a senior official. I do not know what kind of people they employ in Whitehall but I can tell the hon Member that the officials we employ in the Government of Gibraltar would not go off rabbiting to the Gibraltar Chronicle saying "Joe Bossano is contemplating direct rule over John Major". They would not do a thing like that unless they had lost their wits. I do not know whether there has been some kind of bug that has driven them insane in Whitehall so I am assuming that in fact although a senior official is saying they plan to take over Gibraltar by direct rule which can only mean suspending the Constitution and removing this House, I do not see what else it can mean, but I am speculating. I do not know whether the man who said that to the press had the authority to do it. I know that the Earl of Arran in the House of Lords the following day said "My Lords, I make clear straightaway that there is no threat of direct rule. I repeat that cooperation is the best way forward. There are suspicions of money laundering and drug trafficking and it is true the Gibraltar Government has fallen behind in implementing some Directives. My Rt Hon Friend the Secretary of State is exhorting them to implement the Directives as soon as possible." Fine! I will not pick a quarrel with the Secretary of State because he is exhorting me to do it. He has got the right to exhort me and I want to do it and I am committed to doing it but if while he is exhorting me to do it somebody else tells the press that they are actually planning to send a task force what does the Opposition Member expect me to do sit on my backside and do nothing about it? Well, I am afraid that is not going to happen.

HON P R CARUANA:

Will the Chief Minister give way?

HON CHIEF MINISTER:

No. In fact the hon Member had if he wanted the whole 40 minutes to himself and he generously decided to give half of it to me and I cannot take it back. As far as I am concerned, Mr Speaker, the issue that concerns the British Government at this point in time is the issue that arises out of the fact that at the last House of Assembly when we had the Committee Stage I agreed to remove a proviso in the legislation which allowed the Government by regulation to extend the money laundering law to other crimes moved by him, accepted by me. The first and the last time he will have an amendment accepted by the Government. [Interruption] No, it happens to be factually true. We have removed it and I have now said to the ...

[Interruption] Mr Speaker, if the hon Member will let me finish then he can make whatever judgement he wants. I have now told the British Government that I am prepared to bring amending legislation to the next House to put it back so that we can extend the law to other crimes, which is what they want me to do. [Interruption] No, the issue is that I said to them in December that I was not convinced (a) that they had the right to demand it and (b) that we ought to be doing it given that other people had not done it but that I would put in the law - that is what I promised to do in December - enabling legislation so that we would keep the matter under review. I have promised the Foreign Secretary to reconsider the decision in my last meeting and we will listen to his arguments and it may well be that we will decide that this is not the issue on which we ought to stand particularly after listening to all the arguments the hon Member has put on behalf of the people of Gibraltar that he claims to speak for because we are not going to go backwards constitutionally because it looks as if we are putting them to be the nigger in the woodpile because this is not the right moment to upset the British when we need them to help us with Spain. For all those reasons which he has put today we may decide that the British Government should have their way irrespective of the effect it has on his listeners and the rest of the finance centre.

MR SPEAKER:

I would like to tell the Chief Minister that he has got about three minutes to go.

HON CHIEF MINISTER:

As regards the other items that need to be done, because we are so stubborn, which the hon Member finds so

unacceptable, I can tell him that there are now 100 that need to be complied with although there were 130 and it took us two years and just over one month to finally persuade them in London that 30 of the 130 did not apply in Gibraltar because they were made under Article 100(a) of the Maastricht Treaty which does not apply to us because we are outside the Customs Union. Otherwise, two and a half years ago presumably to avoid making them niggers in woodpiles or upsetting them or being anti-British or being too aggressive or mishandling the situation, we would have finished up with 30 directives, hampering the private sector unnecessarily because the private sector would have had the obligations but not the access to the market because we are outside the Customs Union. It took us two years and one month to reduce the list from 130 to 100. We are ready and determined to remove this backlog. We have told the Foreign Secretary and we sincerely hope that it will be possible to reconcile our differences on the terms that the Earl of Arran has spoken, that David Dumas has spoken, that the Foreign Secretary has spoken in the conference that he gave after his meeting with Señor Solana where he said that he wanted to work on close cooperation with Joe Bossano. We did not say with Peter Caruana. He did say with Joe Bossano and therefore since I would not want the Foreign Secretary to have the misfortune of having to work with Peter Caruana and since he told the general public that there is no question of any attempts to undermine the Gibraltar Government, what we want to do and what we will do, is to work constructively and productively with Joe Bossano to build a stable and prosperous future for Gibraltar. Obviously he has got more faith in me than the Opposition Member, then that is what we will try and do and I hope that we can put this to bed but if we cannot put it to bed the first move will be made by the British Government not by us and we will see who is with us and who is not with us and at the end of the day people will have to be either on one side or the other, there is no sitting on the fence.

MR SPEAKER:

Before I put the question I would like to give a very short explanation. First, the adjournment is for the next sitting if carried. If it is not carried then I will suspend the business of the House until 5.35 p.m.

Question put.

MR SPEAKER:

The motion is defeated and I now suspend the business of the House until 5.35 p.m.

The House recessed at 5.20 p.m.

The House resumed at 5.35 p.m.

THE APPROPRIATION (1995/96) ORDINANCE, 1995

HON P R CARUANA:

Mr Speaker, returning to my address on the Appropriation Bill and towards the end of it I will be returning to some of the Chief Minister's extraordinary remarks in relation to that debate in so far as they are relevant on the appropriation debate. Before the adjournment I was taking the House through items arising from the Principal Auditor's report and I had explained to the House substantial discrepancies in respect of the same items as between the date of the original estimate, the date of the revised estimate and the eventual actual sum in the account. The second item refers to expenditure which is simply illegal; contrary to the law; a flagrant breach of the Constitution Order. It cannot be more illegal than that. At paragraph 3.3.3 at page 14 the Principal Auditor says speaking of expenditure "During the course of the year the Financial and Development Secretary authorised £850,309 by way of supplementary funding to meet the additional expenditure requirement of controlling officers. Notwithstanding this there was one case, that of the Education Department, where excess expenditure beyond that appropriated was incurred on the relevant head of expenditure in the sum of £26,280". It is clear what the man is telling us. Whereas the Constitution says that expenditure may not be incurred by the Executive except by the sanction of this House, the Education Department has illegally, unlawfully and in breach of the Constitution spent £26,280 and that is precisely the terms in which the Principal Auditor describes it. On the accounts of Gibraltar, at page 4, of the accounts, as opposed to page 4 of his report, there is a statement of unauthorised expenditure (a) expenditure not covered by appropriation - Section 5 of the Gibraltar Constitution Order - Head 2, Education and Sport - £26,280. I say that that is a thoroughly unacceptable state of affairs. This House is entitled to expect that in the expenditure of public funds, departments of the Government for which the Minister has political responsibility and the Chief Minister has overall political responsibility, will be spent in manner provided by the law and not in a manner which breaches the highest law in the land, namely the Constitution. Another sin to which the Principal Auditor draws attention, is the unauthorised use of savings. At page 14 of his report, paragraph 3.3.4. I quote him, "There were also a number of instances where unauthorised use

was made by the controlling officers of savings within their Heads of Expenditure and these are listed at page 4 on the annual accounts."

The fourth area of the report to which I would like to draw account and as part of the general picture of sloppy control. Sloppy in the case of expenditure that is simply illegal, is too generous a term but then there is this whole question of statements of reallocations of expenditure. At page 15, the Principal Auditor tells us, "A total of 34 reallocation warrants were issued by the Financial and Development Secretary, the last one dated 14th of December 1993 i.e. 17 days before the deadline for the submission of the annual accounts to the Principal Auditor." We are talking about the accounts to the 31st of March 1993. In December 1993, that is to say nine months later, the Financial and Development Secretary was still issuing reallocation warrants. In other words, retrospectively authorising expenditure for a purpose other than that it had been voted for. Mr Speaker, I recognise that this is not a new practice. If we look at most of the warrants that have been laid before the House this year there is an element of retrospection in almost all of them. I say that expenditure may only be applied for a purpose other than that authorised by this House upon the issue of a reallocation warrant by the Financial and Development Secretary and that therefore that must pre-date the expenditure and not be a bit of paper that is put in place after the event. I would gladly give way to the Financial and Development Secretary if he wishes to explain that. I understand that is not the practice, but it is not the first time that the Principal Auditor makes this point but it is the first time that he says this one is very late in the day. This one is nine months after the event. This one is 17 days before the deadline for the submission of the accounts to the Principal Auditor for auditing and we are still fiddling about with authorising expenditure for a purpose other than it was voted for. If it were not important the Principal Auditor would not have gone to the trouble of putting it in his report.

The fifth items relates to the control of stores. It is clear from a cursory glance at the Principal Auditor's report that the Government's performance on the control of government stores is pitiful. In relation to the Education Department, he says at page 15 of his report, and I quote him "The Director of Education has informed me that the excess expenditure was due to an under-estimation of the cost of unallocated ..." this is not the illegal expenditure of £26,000, this is other expenditure that he spent in excess of that which was authorised. "The Director of Education has informed me that the excess expenditure was due to an under-

estimation of the cost of unallocated stores issued to schools and that estimation was seriously hindered by a lack of information from Support Services on the value of the stores issued by them to his department. Notwithstanding the unsatisfactory situation concerning the unallocated stores accounting system, the Financial and Development Secretary has expressed the view that the Director of Education should exercise closer physical control of the stores used by his Department and if necessary devise his own internal departmental recording and controlling procedures. Given the size of the over spent, namely £38,498 in a sub-head with an original provision of £49,200, it would appear that, as stated by the Financial and Development Secretary, the cause of the excess cannot be solely placed on the failure of the unallocated stores system to issue timely accounts." In the very next paragraph the Chief Fire Officer has a reported complaint to make about the stores as well. "The Chief Fire Officer once again expresses dissatisfaction with the failure of the Support Services Department to bill promptly for the issue of unallocated stores pointing to the fact that he received charges for the issue of stores to his Department relating to the financial year ended 31st of March 1993 in November 1993." We have lack of information on values. We now add to that late billings and at page 4 the Principal Auditor says, "It is clear from both these incidents ..." not the ones that I have just described but two incidents that he describes in the paragraph before "... that control over expenditure and the custody of allocated stores continues to be deficient to the extent that the present system is open to malpractice. When the Royal Gibraltar Police completed their investigation into a theft of stores in September 1992 they concluded that the accounting system of the stores was flawed and that necessary action was required to be taken to avoid further loss of Government property. It is regrettable that little or no action appears to have been taken to exercise strict control over the purchase and custody of stores held by the Ministry of Building and Works at its various depots since then. It would appear necessary to point out that controlling officers are by virtue of Section 42(2) of the Public Finance (Control and Audit) Ordinance, liable to be held personally accountable for all monies dispersed and for all stores held". Notwithstanding the unsatisfactory situation in July 1994, which is the date of this report, the Principal Auditor was still complaining of the Government's persistent failure in taking any steps to remedy the situation. Mr Speaker, at page 60, at paragraph 6.9.5. he says "In my report on the 1990/91 Accounts and 1991/92 Accounts I draw attention to an unsatisfactory state of affairs in the operation of unallocated stores." Previously we were discussing

allocated stores. "The current situation continues to be that controls in this important and high value area are very weak. No action has been taken since the last audit inspection when a number of recommendations were made in order to bring a measure of control over the operation of the stores."

Finally, Mr Speaker, in a situation in which the Principal Auditor is pointing out weaknesses open to malpractice, where there have been complaints, one would have thought that the Government, instead of ignoring the Principal Auditor's report for remedial action, the last thing one would expect, Mr Speaker, to discover is that the Government were back pedalling and doing the opposite because at page 66 of his report, paragraph 6.10.17, he says, "In November 1985 the post of Stores Verifier was lost to the Audit Department with the transfer of the incumbent to the Public Works Unallocated Stores. This move marked a return to a position where there was a requirement to appoint boards of survey. I am not, of course, suggesting that we should now move back in time but the present situation with no boards of survey being held and with little or no audit evidence of stock verification being undertaken departmentally, is clearly unsatisfactory and requires to be reappraised". Mr Speaker, I say that it is clear from the remarks of the Principal Auditor that the Government are reckless in their continued refusal to put in place, at least until June 1994 they had not, notwithstanding his repeated requests, reckless, in putting in place the very measures and control which the Principal Auditor had been repeatedly year in, year out, demanding of them.

Mr Speaker, this morning the Chief Minister was talking to us about arrears and he was congratulating himself on the success that Gibraltar Procurement Limited, or now Gibraltar Information Bureau who now does it, had done in collecting PAYE arrears. The Principal Auditor is not as complimentary of his Government as he himself is. At page 17 of the report the Principal auditor points out that total arrears owed to the Government amount to £23.42 million. True, and it is evident from the content of the report and from the contents of the accounts, that a fair amount of these arrears is generated "artificially" by the fact that the Income Tax Office issues assessments in the absence of returns to many, many companies which do not exist or which are abandoned or which do not trade and which never get paid and that they go into the list of arrears. But still the Principal Auditor did point out at paragraph 3.6.3. that there had been no significant action taken to control and bring the arrears situation under control and that whereas the Chief Minister may be able to point to PAYE that there are other very significant areas of arrears.

Electricity, Rates, Housing Rents, where they are making absolutely no effort whatsoever to collect arrears. At page 33, the Principal Auditor gives the enlightening statistic that as at 31st of March 1994, 26.8 per cent of all electricity bills then issued were outstanding; 26 per cent of electricity billing as at that date was unpaid and outstanding, to a total value of £2 million out of £7 odd million issued. It may be that since the 31st of March 1994 that position has been improved but that is what the Principal Auditor says at paragraph 5.6.6. The Government and members of the Opposition will no doubt agree that the collection of arrears is a matter which ought to be done because it increases the Government revenue and this is helpful to the public finances and might one day enable the Government to reduce the fiscal burden, the tax burden, on the people of Gibraltar. At page 34 the Principal Auditor expressed delight at the fact that he had then been told that the Government were going to set up a new arrears unit. He says "I have once again addressed the Accountant-General seeking his comments on the continued rise in arrears trend and the apparent lack of attention being given to debt enforcement with particular reference to the re-introduction of cutting off procedures for domestic consumers." He replied as follows: "I am pleased to be in a position to inform you that a decision has already been taken by Government to set up a special unit under my direction which will have as one of its functions for responsibility for bringing under control the unsatisfactory electricity arrears position" and then he goes on and on. The point that I make is that in the Estimates that we have before us at least under the head of the Accountant-General's Department there is no indication that there is an establishment increase in that Department which suggests that the new arrears unit has been put under the Accountant-General's Office. Of course, it may be that the Government have put it elsewhere, under the Department of the Environment or something like that, and I expect that they will give me news about that later.

Mr Speaker, the seventh item which I think is a disgrace and which is a disgraceful abuse of the rules of government accounting is the issue reported by the Principal Auditor at page 22 of his report, at paragraph 4.2.5., where he says in relation to the Improvement and Development Fund, "It also appears that reimbursements," that is, monies paid back to the Government by private developers for work that the Government do for the private developers "in the sum of £426,000 made in respect of the 1993/94 financial years have been credited to deposit accounts, instead of the Improvement and Development Fund and that these funds are being utilised to meet expenditure on relevant infrastructural works.

This not only undermines the financial management of the Improvement and Development Fund but is, in my view, a breach of Section 26 of the Public Finance (Control and Audit) Ordinance." In other words, let us be clear what the practice the Principal Auditor is referring to there. All revenue has to be credited to the Consolidated Fund from which it then needs the permission of the House of Assembly to be spent. What the Principal Auditor is here saying is that when the department that deals with this aspect of the Improvement and Development Fund presumably, Trade and Industry, collected £426,000 from developers, instead of putting it into the Consolidated Fund so that it would then only be able to be spent with the permission of the House of Assembly, they were putting it on deposit presumably with the Accountant-General on the Improvement and Development Fund expenditure. Mr Speaker, that is not the only instance of it and it is the Principal Auditor, not me, although it is apparent to me as well that that is irregular, it is the Principal Auditor whose constitutional responsibility it is to report on the Government's accounts. It is he who says that in his opinion it is a breach of Section 26 of the Public Finance (Control and Audit) Ordinance. It is not I who have said, although I share his view. The Electricity Department is doing or was doing exactly the same thing. At page 23 the Principal Auditor tells us "Consequent to an inspection of the Electricity Department I addressed the Financial and Development Secretary on the 18th of February 1994 and drew his attention to the practice in this Department of charging expenditure on the provision of sub-stations and distribution networks for development projects to deposit accounts. I have again expressed the view that where the works involved result in the creation of Government assets the cost involved and any recoveries effected should be accounted for in the Improvement and Development Fund. I have dealt with this matter more fully in section 62 of this report". So, Mr Speaker, at section 62 which is at page 43 the Principal Auditor tells us, "As previously expressed, in section 4.3.2. of this report I am of the view that where the works involved result on the creation of Government assets such works at the provisions of sub-stations and distribution networks, it is wrong not to reflect the costs involved and any recoveries effected from developers to the Improvement and Development Fund. The Public Finance (Control and Audit) Ordinance provides for such expenditure to be charged to the Fund as well as for the crediting of monies received for the purpose of the Fund. Not to do so undermines the budgetary control over the finances of the Improvement and Development Fund imposed by the Ordinance." Needless to say, the Education Department was also up to the same thing. At page 41

"Revenue and Expenditure: College of Further Education - in succeeding reports I have drawn attention to the fact that expenditure and revenue related to the running of courses by the Gibraltar College of Further Education was being understated in the Revenue and Expenditure Accounts of the Government. Instead these transactions were being accounted for through a deposit account held in the name of the Director of Education." In other words, off balance sheet accounting. "Given that the Deposit Accounts were essentially being used to account for the costs and corresponding revenue generated by the running of courses for the Employment and Training Board and that the Director of Education was not able to exercise control over it, no further transactions were allowed by the Director to be made to this deposit account as from the commencement of the Financial Year under review. In view of this a new account was opened in the name of the Employment and Training Board. Clearly, this did not rectify the basic anomaly whereby Government expenditure and revenue on education was not being properly accounted for in the appropriation accounts". The final example of that issue and it has got to be borne in mind, Mr Speaker, that the Principal Auditor does not find all the examples, because of course his audit is a random audit and if in a random audit he has discovered all these examples, one shudders to think just how rife this malpractice is because if a random audit of the Government finances reveals all these examples then of one thing we can be sure, the random audit has not found every example of this malpractice. At page 60, he says, "Services performed by Government Garage: Support Services is essentially a spending department but it is also required to account for monies received in respect of services performed by the Government Garage for non-Government bodies such as Lyonnaise des Eaux (Gibraltar) Ltd. The revenue arises from the services amounting to over £50,000 during the course of the financial years 1992/93, 1993/94. I have expressed the view to the controlling officer, namely the Highways Engineer, that it is not correct to account for such revenue or the expenditure incurred by Government in providing such a service through a deposit account but that the revenue and expenditure should be accounted for in the Consolidated Fund and appear as such in the annual accounts of the Government". So, Mr Speaker, all of those are examples of cases in which a Government department collected money, did not put it into the Consolidated Fund and therefore spent it without the sanction of an Appropriation Bill of this House which is what the law requires of it. Then, there is an even graver practice than that. Yes, it is clear to me that the Government attach no importance to onus and proper financial accounting. It comes as no surprise to me that

these financial malpractice have proliferated under the stewardship of the Government Members.

CHIEF MINISTER:

On a point of order, Mr Speaker, the hon Member is saying that he is not surprised that dishonest practices arise. Is he imputing dishonesty to the elected Government?

HON P R CARUANA:

I have said that it does not surprise me that this casual and improper financial accounting should have proliferated under their stewardship. It is not I, Mr Speaker, who has said that there has been illegality. It is the Principal Auditor that has said that there has been illegality. The outburst of which the Chief Minister now complains is provoked because they titter there as if all these were unimportant and amusing matters and I say that it surprises me not one jot that the Government think that this sort of issue is amusing.

The eighth financial malpractice that I highlight to is the blatant misallocation of expenditure by booking it under an irrelevant subhead. In other words, for example, some Government department wants to buy a vehicle and because they have run out of money under their subhead "Vehicles" they buy a vehicle and put it down under "Computers", or they put it down under "Entertainment" or they put it down under "Telephone Services". That does not result in an integral proper financial record. The Electricity Department again, at page 44 of the Principal Auditor's report. What is the point of the law saying that this House has got to authorise expenditure and every item of expenditure, if the Government Members then think that it is fine for departments for which they have political responsibility, departments for which it is their political responsibility to ensure that these malpractices do not occur in the departments for which they have political responsibility or are they now going to say that this is the only area of local affairs for which they have been trying to take political responsibility. At page 44 of the Principal Auditor's report, listen to what the Principal Auditor tell us "The Electricity Department: An inspection of the Department's records identified expenditure incurred on the provision of electrical infrastructural services to the development projects at Eurotowers and Westside" I interrupt the quotation. The Electricity Department did a job of work for Eurotowers and Westside II developers presumably laying down some part of the electrical grill infrastructure. I revert now to the quotation, Mr Speaker, "which have been wrongly charged within the Improvement and Development

Fund classification in the Estimates. In the case of Eurotowers two payment vouchers in the sums of £45,897 and £25,956 had been debited to uprating of sub-stations and HV rings - central south district, respectively whilst the payment related to Westside II ..." which any fool can tell is not in the south district has been charged "project amounting to £119,900 had been charged to HV rings central south district as no provision was apparently required to charge this expenditure to the Improvement and Development Fund. This was, however, avoided by debiting existing, though irrelevant, items of expenditure". In other words, let us be very clear, the Government want to spend money for which they have not sought the legally required consent of this House. They, therefore, spend it and book it and conceal it by booking it under an item that has got absolutely nothing to do with what the money was actually spent on. I say to the Government Members that that is an illegal and scandalous disgrace. Mr Speaker, lest anybody should think that these are isolated incidents, in the very next paragraph we have a further example. I am glad to see that the Financial and Development Secretary has suddenly perked up and taken an interest in these proceedings. At paragraph 6.2.6. he says, "It appears that at the time of audit the total duty to be recovered from Westside II developers was £196,624 of which, as already stated, a sum of £199,900 is known to have been misallocated. It seems that the rest of the expenditure has been randomly allocated by the City Electrical Engineer pending a decision on the level of contributions payable by the developers." In other words, out of £196,000 he has mis-allocated £119,000 and randomly allocated the rest. Mr Speaker, the Building and Works Department does not escape this. At page 47 of his report, paragraph 6.3.7. he says "The expenditure audit has revealed that during the period March/June 1992 Gibraltar Security Services Ltd were employed by the Ministry of Building and Works to provide a 24-hour security service at Elliott's Battery. This property has been released by the Ministry of Defence to the Government and was subject to the issue of self-repair lease from the 1st of May 1992. The cost of the security service would appear to have come to £70,848. This amount has been identified as having been incorrectly charged in the accounts to Head 101 Housing: Item 2, Refurbishment of Government Housing." The Minister for Government Services will be pleased to note since they think that all this is such fund that his own Department does not escape criticism either. The Post Office saw fit to purchase a £7,750 computer and put it down to the supply of stamps to the Philatelic Bureau. This is extraordinary. It really shows a catalogue of systematic, improper accounting. "The audit inspection

also reveals that additional expenditure incurred by the Department on the purchase of computer software, cabling and training, amounting to £7,750 has been wrongly charged in the annual accounts to the provision made in the Approved Estimates for the supply of stamps to the Philatelic Bureau. The original expenditure related to the computerisation of the Philatelic Bureau's records had been properly allotted to the Improvement and Development Fund where funds for minor computer developments had been approved. I understand that at the time the additional expense was incurred the funds under this head and item of the Improvement and Development Fund had been exhausted. In the circumstances it would appear that an application for supplementary funding should have been made." Mr Speaker, there are two other matters which just out of this Principal Auditor's report which I think demonstrates an unacceptable laxity and casualness and informality on the part of the Government Members in the stewardship of public monies. At pages 34 and 35 of the Principal Auditor's report and in relation to the Workers' Hostel Fund, of course the management of the Workers' Hostel has been privatised in favour of a company called Devil's Tower Hostel and another company called Tower Hostels has had the one at Casemates. This is what the Principal Auditor has to say about that, "I understand that the running of both the Devil's Tower Hostel and the Casemates Hostel has been privatised. The former towards the end of 1992 and the latter a year later. At the time of writing this report (June 1994), however, no formal contract between the Government of Gibraltar and the firm involved, Tower Hostels Ltd, was in place. I am, however, informed by the controlling officer, namely the Accountant-General, that Tower Hostels Ltd is in receipt of all the accommodation fees and pays for the operating costs. An examination of the expenditure of the Workers' Hostel Fund has nevertheless revealed that payments continue to be made by Government towards the running expenses of the Devil's Tower Hostel. I also understand that the Government pays a management fee to Tower Hostels Ltd and that this is reflected in the expenses of the hostel that is showed in the annual statement of accounts". Mr Speaker, what the Principal Auditor is saying is that the Government privatised the hostels, they signed no contract the operator of the hostel collects the revenue and the Government continues to pay running expenses and that there is no accounts. "The audit of the fund account also revealed that neither the expenses incurred by Tower Hostels Ltd or the revenue it received from accommodation fees had been incorporated in the statement of account. This is made necessary by the need to provide a full account of the finances of the operation of the Workers' Hostel as prescribed in the regulations of the Workers' Hostel Fund". In other words, that for at least two years there was a willy

nilly system where this company, in whose favour the Government had privatised the Workers' Hostel, simply collected Government revenue, Government continued to pay the company running expenses and that there is no accounting of it.

The final point that arises from this whole subject of the Auditor's report is at page 28 in relation to the minting of coins. This is what the Principal Auditor has to say about that, at page 28, "The new coinage ..." and there is 1.973 million odd pounds, 1,973,862 coins in circulation "...was introduced in December 1988 in collaboration with Pobjoy Mint Ltd who are responsible for the minting and distribution outside Gibraltar of all coins issued by the Government. In addition to the circulating coinage a total of 46 different sets of commemorative coins had been released by February 1994. In all cases the expenses involved in the production of coins are borne by the Pobjoy Mint with the Gibraltar Government paying of the manufacturing cost of the coins it requisitions from the mint. Also, under the terms of the agreement with Pobjoy Mint Ltd royalties accrued to the Government from the sale of coins by the mint worldwide. The amount received by way of these royalties up to the 31st of March 1993 was £389,008. The agreement also provides for the submission to the Government of an annual audited statement of the account of number of Gibraltar coins minted and issued by the Pobjoy Mint. No such statements have ever been received. We have here a mint in England printing whatever coinage of Gibraltar it wants. This is not rent a jurisdiction. What we have here is the Pobjoy Mint publishing whatever commemorative coinage about Gibraltar it wants and the Government cannot even be bothered to collect statements which are mandatory under the agreement, to ensure that it is receiving the full amount of royalties to which it is entitled. "In this connection I addressed the Director of Postal Services on the 28th October 1993, who is the controlling officer for the Gibraltar Coinage Fund drawing attention to the fact that the non-submission of the statement of account rendered it impossible for him, or me in audit, to verify the correctness of the royalties received." Mr Speaker, and the Government defend the political position that there is no need for a public accounts committee? What we need is not a public accounts committee, it is a public accounts committee that sits constantly. If this House has got to make sure that expenditure is not only legal but is properly booked and not mis-booked in order to conceal the fact that there was no authority of this House for it, then the Chief Minister may wish to continue to defend the political proposition that he is not in favour of a public accounts committee and whilst he does so I say that people can draw their own inferences, in the light

of his remarks as to why he maintains and defends that view.

Mr Speaker, the "economy" can initially be divided into two although of course the Government finances and the private sector economy but given that it is now recognised by us all including the Chief Minister that the private sector economy is crucial for the general economy given that it has replaced the Ministry of Defence, eventually the prospects and what happens in the private sector economy will, subject to fiscal drag which I do not know how long it takes in Gibraltar, will eventually impact on the economy of this Government. In other words, on the finances of the Government.

In relation to the liquid reserves of the Government of Gibraltar certainly it is true that following answers to questions in May I am now in a position to assess what the recurrent revenue of the Government of Gibraltar is. It is more difficult to assess the real reserves position. In other words, how much money the Government really have put away for a rainy day and it is more difficult to do that without an updated special fund balance of all the various special funds which of course is one of the items that quite extraordinary the Financial and Development Secretary was unable to give me in May, and without knowing, if any - because of course they might or might not have any - possible cash and liquid investments held by companies owned by special funds particularly the Gibraltar Investment Fund. We know that a lot of these funds have received monies. Some of them hold investments as opposed to Government properties and may have maintained an accumulation of not just liquid investment but indeed of cash which at any given time could be withdrawn by the Government and brought back into their own coffers. However, in answer to Question No. 67/95 the Financial and Development Secretary told me that Government's liquid reserves at the 31st of March 1995 were £4.8 million. According to the Principal Auditor liquid reserves of Government are deemed to represent not only Consolidated Fund monies but also cash balances of special funds, monies held in deposit, cash advances, unretired imprests and amounts held by the Contingency Fund. As at the 31st of March 1993, that is two years ago, this figure was a net £20.9 million or £21 million. The Chief Minister will forgive me for rounding it up by a very small amount of money. By the 31st of April 1994, - this was in answer to Question No. 19 of 1994 - that figure had already fallen to £4.5 million. Mr Speaker, perhaps I could just pause there to ask this. How can the Financial and Development Secretary be in a position to give me the figure of liquid reserves which includes cash balances in every special fund account balance and the cash balance of each

special fund when one of those two items, the cash balance, he needed in order to tell me what the total liquid reserves of the Government are. It proves that he had the information. When he gave me his answer to Question No. 68/95, he must have had available to him the cash balances of each special fund because that is one of the vital ingredients of a tit bit of information that he did give me, namely the total liquid reserves of the Government of Gibraltar. I do not see how he could possibly have been in a position to give me the total liquid reserves of the Government of Gibraltar and then tell me that he was not in a position to give me the cash balance of each special fund. I say that he has been caught out.

Mr Speaker, and as to how much the Government have put aside, of course, there are other potential little piggy banks that the Government might have tucked away apart from the £4.8 million in liquid reserves as at 31st March 1993, which is the latest figure that I have on that. There were very substantial liquid reserves for example in the telecom fund. There was then £12,733,000. In the Social Assistance Fund there was a balance of £3,618,000 but I have to assume that those liquid reserves because they are liquid reserves of a special fund, are included and therefore netted into the £4.8 million figure he gave me for the general liquid reserves of the Government of Gibraltar. Therefore one would need to know later when we get the information into what the telecom fund has deployed those £12 million cash reserves that it had at March 1993. But what I am sure is not included in the figure of £4.8 million of liquid reserves as at 31st March 1993 is the figure of General Reserve Fund of, say, the Gibraltar Savings Bank which I think from memory, I am not sure that I have taken a note of it, but I think it stood at £8 million or £9 million. That reserve may be maintained or at least he will claim that he maintains it. At least this is the explanation that he once gave me that he maintains it, in order to maintain the solvency margin because of the amount of deposits that the Gibraltar Savings Bank Fund holds. Fine! But given that the majority of those deposits are Government monies, all he has to do is to withdraw some of those Government deposits from the Gibraltar Savings Bank and hey presto all or a very, very substantial part of the general reserves of the Gibraltar Savings Bank is suddenly available to the Government for the general purposes of Government expenditure. So, there is a small additional potential rainy day fund for the Government because they certainly do not need a reserve of £8 million or £9 million in the Gibraltar Savings Bank as the margin for the deposit that it has from members of the public which are a very small part of the deposits of the Gibraltar Savings Bank. As I say, a very high, much

more than 50 per cent, I think 60 per cent or 70 per cent, from memory of having looked at the last accounts of the Savings Bank, of the fund on deposit to the Gibraltar Savings Bank, of the fund on deposit to the Gibraltar Savings Bank are funds of one Government Department or of a special fund or of a joint venture company. In other words, monies that the Government control. I assume and I interpret he was much less cagey about it last time that he gave me that little spill. He told me that I could draw whatever conclusions I wanted but that he was not confirming it. As he has now repeated his axiomatic point (I believe that that is one of his favourite words) and he has told me that as the Government can borrow money more cheaply than companies it is axiomatic that the companies would not have borrowed money more expensively the Government would have. I think that it would be positively and premeditatedly misleading, if, having said that, there is any Government-owned company that has borrowed money because anyone who, in good faith, heard what he had to say this morning on that would be fully entitled to assume that there were not Government-owned company which had borrowed money. Excluding Nynex and Lyonnaise des Eaux if this Government has a shareholding as a partner, in other words, excluding the general and commercial partnership, I assume that the combined borrowings of all Government-owned companies and the public debt as defined by the Constitution is £99.3 million. A net £83 million taking into account the content of the General Sinking Fund. Incidentally the net debt of the Government, at March 1994, was £74.5 million and the net debt now is £83 million. In other words, it was £92.1 million at the time the Sinking Fund was £17.6 million and it is now £99.3 million at the time when the Sinking Fund was £15 odd million. I have rounded it up in their favour. The net debt of the Government of Gibraltar is £83 million as opposed to £74 million last year. There is one aspect about the Gibraltar Savings Bank and this issue of public borrowing which I would just put on the record for answer. Anyone who looks at the way in which the assets of the Gibraltar Savings Bank are invested - the assets of the Gibraltar Savings Bank as at the 31st of March 1993 amounted to £105,530,407 - would be impressed by the prudence with which the fund is diversified presumably to spread out maturity dates and to reduce the risk of one or other investment going wrong. The things that prudent investors would normally do. If one was investing the nest egg of this community one would expect a prudent investment manager to diversify it as 75 per cent of the Gibraltar Savings Bank has been prudently invested. But then, having gone to the trouble to spread out of the £105 million, £68.5 million of it amongst 40 different investments, we then find that £25 million is deposited with the local subsidiary of Banco Español de Credito (Gibraltar) Ltd and I say my goodness, what has happened

to the prudent diversification? Why do the Government that carefully spread out £68 million over 40 different investments, suddenly lose their head and when it comes to £25 million in cash which is the other 25 per cent almost, subject to another £8 million, they then deposit it in one bank. Because I am the suspicious chap that the Minister for Government Services is always suggesting that I am, I wonder and I put it no more strongly than this, whether that is pursuant to some back to back loan arrangement ... [Interruption] The Chief Minister will have his right to reply later. If it is not that, then he must explain why he considers it to be prudent to have invested £25 million out of a total of £102 million in one local bank, and, incidentally, a local Spanish bank, not that that necessarily means that the bank is more or less solvent, but coincidentally a Spanish bank that has had difficulties. Of course, Mr Speaker, it is all very well for the Government to say everything is hunky dory because recurring revenues are being maintained. "We got more out of PAYE than we were expecting, the Moroccan impact was not as bad ..." but what they never acknowledged is that their recurring revenue, thanks to the failure of their economic plan to deliver sustainable growth in this economy, has been maintained by a series of punitive fiscal measures which are both oppressive to the individual and an obstacle to the success of the very private sector economy that he says is vital to the economy.

Dealing first with the question of personal taxation, Mr Speaker, the Chief Minister may want to say that he has not increased income tax since 1988 but he knows jolly well that arithmetically his failure to increase allowances to accommodate for inflation adds up to an annual tax increase and that his failure to widen the tax bands to accommodate inflation also amounts to a tax increase. It results in wage earners paying a higher percentage of their income in tax than they used to. Then the third and perhaps the most punitive fiscal measure of them all is the maintenance of such narrow tax bands at the lower end of the scale which results in wage earners in Gibraltar reaching the 50 per cent tax bracket, very, very, very much sooner than they would get near the 50 per cent tax bracket anywhere else. In Gibraltar if a person happens not to have a mortgage he reaches the 50 per cent tax bracket by the time he gets to £15,000 income. That is punitive taxation. I believe that only Sweden taxes its citizens higher than Gibraltar and the Chief Minister has increased them every year since 1988. I do not suppose he thinks that people are blind and they do not see the diminishing value of their disposable income. The rises in employees' social insurance contributions, let us not forget. In 1992 these were £12.27 a week, they are now £17.87 a week. They have

risen by 40 per cent in four years. The employee is now paying £265 a year more in social security contributions than he was in 1992. This is just hidden taxation, that is just a disguised increase in taxation. What about measures that have oppressed business? These are the issues that he has not addressed in his own speech. The import duty structure has now resulted, according to the Chamber of Commerce, in a loss of competitive edge on many goods upon which the retail sector of Gibraltar depends. Rates in Gibraltar have become a central overhead for every business. There are businesses in Gibraltar that now go out of business because of the size of their rates bill. The rates now have no relationship with the cost of providing municipal services to those buildings. It is just another form of taxation. Businesses, in the last three years, have suffered a 36 per cent increase in social insurance contributions per employee. As I said before fiscal drag may preserve Government revenues at the current level for a while longer but it will not do so for ever. The difficulties that most businesses face out there, are issues about which the Chief Minister is apparently oblivious. He has not once addressed his mind to it today and it is not long before that impacts on his PAYE receipts, on his company tax receipts, on his rates receipts, on his social security receipts and in his import duty receipts. What is, then, the state of that real private sector economy? I am going to remind him of my little optical illusion boom because, of course, what I am not going to let him do is misquote my quote. He is the master of the misquote. In 1992, I warned about the building boom, then undoubtedly in progress. I am not blind, I could see that there were buildings going up, so the optical illusion was not the buildings. Building boom that was then undoubtedly in progress created an optical illusion of underlying economic health. The optical illusion did not relate to the buildings. It related to the underlying economic health which I said was not existent. The Government Members laughed and certainly more than half of them laughed not actually understanding what I was saying. Sometimes I wonder whether the Chief Minister has a button under his table which he presses, like they do in television studios 'applause' and they all giggle simultaneously. Time has regrettably for Gibraltar proved me right. Everybody can see for themselves the fate of the private sector. Indeed, Professor Arronovitch, this is a man who is an economic expert, the man is a Professor of law at London University and he said the construction boom which resulted masked the problems of the economy. That it has now run its course. Hey presto, here is an economist from London University who makes exactly the same point, choosing almost the same parody as I used, that the building boom was a temporary masking of what was in

reality a not very healthy sustainable economy in terms of what was going to carry on when the last brick had been laid. Only somebody stuck in an ivory tower and out of touch with reality and surrounded by yes men, too scared to report the real position to him and advise him accordingly, can fail to notice the grave problems confronting almost every sector and that is the Winston trade. So, what are these problems? What are the problems facing business? Where have Government got it wrong? I am not so disingenuous as not to acknowledge, but obviously the situation at the border has a negative impact. Some of the things that are going wrong for us would not be going quite so wrong for us. They would still be going not as well as they could, thanks to their economic mismanagement, but certainly the situation at the border has a substantial negative impact on, for example, the willingness of day visitors to come to Gibraltar.

But, Mr Speaker, in addition to that there are severe policy failures coupled with an inexplicable stubborn refusal to consult people who clearly know more than them. Professor Arronovitch said, and I quote him "Miscalculation ..." fancy this man coming to Gibraltar to say that our own economic gurus capable of economic miscalculations - extraordinary, but he did. Almost blasphemy "Miscalculations by the Gibraltar Government itself ..." good grief "aggravated by failures to create effective partnership with the trade unions and the business sector the consequences of which is that Government has deprived itself of valuable advice and experience". In his latest statement to his members the President of the Chamber of Commerce, whose views no doubt the Chief Minister will also wish to disregard for other reasons, says and I quote him "The business sector is recognised as having certain skills and knowledge that without doubt contribute to growth. We demand this recognition to foster the economic growth that is possible ...". In other words, it is not happening "that is possible even with our current political situation. Unfortunately, our political situation with Spain hinders prosperity but there are numerous factors which our Government should address to create a more favourable business climate to enable the trading community to face the future with confidence. Gibraltar has the potential to be developed as a booming trading centre. The Government must improve communications and consultations with the various sectors of the economy to achieve this. Unfortunately, the Government is out of touch in some respects listening only to a selected few". Then we have this Government obsession with ignoring tourism. Professor Arronovitch has this to say about that "Preoccupied by its strategy the Government

neglected the tourist and trade sectors, both critical for the economy". Both critical for the economy! One of them the Minister then with responsibility for tourism probably still is as one loses track of what ministerial portfolios they have, said that the Government policy on tourism was to hand it to somebody else. The President of the Chamber of Commerce says, however "Our tourism industry has been neglected in many aspects in the last few years. Regrettably this sector has lost a great deal of ground since the opening of the border with Spain in the mid 1980's but it is never too late to act, but it must be addressed with urgency. I would like the Government to give a higher priority to tourism and increase the budget towards a more aggressive marketing strategy". In relation to tourism these are precisely the points that we have been making ad nauseam since 1992.

The Port, let me see if I can interest the Minister for Trade and Industry, was an area in which we were experiencing an increase in business. It was based on the fact that although bunkers in Gibraltar was more expensive for ships than in Algeciras, the cost of visiting Gibraltar port in respect of port charges and the like was so much cheaper that it was still worth it for ships to come to Gibraltar instead of to Algeciras for bunkerings, so we experienced a boom. Algeciras has now cottoned on to that and has modified its own port fee structure to deprive us of that price competitiveness. The first results because I fear there will be more, is that the fall in ships visiting Gibraltar between 1994 and 1993 was from 2,798 to 2,425. What was the response of the company of which the Minister for Government Services is its chairman? What was the response to this loss of competitiveness? Our fuel is already more expensive. They were coming to Gibraltar notwithstanding that because the port calling costs were cheaper. We lose that and the very next thing that happens is that the price of water to shipping in Gibraltar is almost doubled from £4 to £8 a metric tonne. In Algeciras it costs 400 pesetas. Not satisfied with having been deprived of the advantage that we had before the eminences that made this decision now say "Well if they have got two out of the three advantages they might as well have all three of them" and they triple the price of the water to shipping in Gibraltar. This is what happened. Mr Speaker, surely hon Members know that the retail trade in Gibraltar is going through a crisis. That the result of the increases in the number of people that have mortgages and therefore have less disposable income in their pockets, has squeezed severely the amount of money that local residents spend in our local shops. In addition to that the frontier situation is choking off the visitors from the border and that thanks to the

Government policy the tourists visiting Gibraltar, except perhaps cruise ships, which appears to be on the increase, is virtually non-existent in terms of long stay tourism. They do not believe for a moment that the retail sector have not got problems. I did not hear the Chief Minister address this morning what measures he was going to take to address those problems.

In past years, Mr Speaker, when the finance centre, I have told him, has been going to the doldrums, he has said no, what is the hon Member talking about? Cannot he see that bank deposits have risen. Now bank deposits have not risen so now will he recognise that the finance centre is in the doldrums? The he is going to have to find another reason to justify buoyancy because if before it was banking deposits and now banking deposits are down, the Chief Minister cannot blame the fall in bank deposits to the fact that Mr Clarke will not give him passports so that Gibraltar-based banks can set up in Paris, because the fact that Gibraltar-based banks set up operations in Paris does nothing to increase the deposits in Gibraltar's banking sector. So the reasons why people are not depositing their money in Gibraltar must be something other than Mr Clarke's failure to unclear the blockage on the passport issue.

Now, we come, Mr Speaker, to something which the Chief Minister appears to think is irrelevant. Two issues which the Chief Minister appears to think is of no significance to our economic prospects. He appears, when it suits him, to say that politics and economics is separate and then when it suits him, as he did earlier today, says, of course, we cannot separate them. Has it occurred to the Chief Minister, as it has occurred to almost everybody else in Gibraltar, that the fast launch activity damages the economic performance of the tourism industry, of the finance centre and of the Main Street trade? That it discourages clients from using Gibraltar? Does he consider that when he counts the money that he collects from tobacco revenue? Or does he not take account of those factors? Does he not recognise that the continuation of the fast launch activity quite apart from the incalculable damage that it is doing to this society here at home, is destroying our image abroad to the point where the finance centre and the tourist sectors are now directly suffering the consequences? He apparently makes no link between these matters.

Mr Speaker, in relation to job creation and to the training schemes available to our youth and to our other unemployed workers, there is little that I have to say in order to demonstrate the obvious failure of the Government's policy in this direction because the party of the Government Members has recognised this. When the

Transport and General Workers' Union called their seminar at Transport House, two or three weeks ago, to which all parties and other bodies sent two representatives, two representatives of the GSLP attended and they subscribed a motion on behalf of the GSLP, the party of Government, which called on the Government to review their current training policies so that youth and older trainees may be given every possible opportunity to trade and compete when applying for jobs. If two representatives of the GSLP consider it appropriate to subscribe to a resolution calling on the Government to review their current policy so that people in Gibraltar have decent training, then I am entitled to interpret that as a recognition that the existing policy, that according to them needs reviewing, has failed. That it has failed is obvious to every body and I am glad to see that it is now obvious even to the party of which the Government Members form part. Mr Speaker, just before reaching the conclusion, when we are here debating our constitutional rights to which we all attach value and to which we all have to give a lot of thought and which we have to put into priorities, does the Chief Minister, who said that politics could not be divorced from our economic potential, think or not that the public state of our relationship with the British Government had any impact at all on the realisation of our economic potential? Has he considered the extent, if any, to which in his opinion, I have no doubt about my own opinion, that user confidence in the finance centre is reduced by some of the recent goings on in terms of the more public aspect of our dispute with the British Government? Has he considered, even, that the nature of his relationship with the British Government has an impact at all on Britain's willingness to back the finance centre or even on Britain's willingness to challenge Spain's border restrictions which I say they have an obligation to do? Does the Chief Minister think that he can best recruit the support of the British Government in the promotion of our finance centre by hurling personal abuse in public at the three most senior members of the British Government when he chooses to describe the Prime Minister, the Foreign Secretary and the Chancellor of the Exchequer as being unfit persons to express view son the quality of government of Gibraltar and that they are a lousy government? Does he not realise when he is engaged in that act of bare chested bravado that these are the very same men whose help we need in order to unblock some of these things that he says are essential to our economic prosperity? Apparently not.

Mr Speaker, it is essential to our economic prospects that we have immediate and full details of all aspects of this row with Britain (the list of 51) so that it can be put behind us as quickly as possible and thereby maintain

the impact on our economic prospects. That it be solved in an amicable manner, that relations generally improve. The Government are going to have to find a different basis for the conduct of their relations with the British Government. It has got nothing to do with the merits of the points that they raise with them, but they are going to have to find a different way of conducting those relationships if it is not to have a serious impact on our economic prosperity. Money laundering is the only issue and they say it can be resolved through dialogue, let us resolve it quickly. They say that in discussions the potential damage to the finance centre can be avoided and the finance centre can be ring-fenced which is the only concern that I have ever expressed, then let us do it and quickly. It is clear just from the fact that he has addressed none of the issues that affect the private sector economy except blaming the British Government - I have no doubt that they have some blame - and except blaming the border. I have no doubt that it has a fair amount of blame but he only mentions the things about which he says he can do nothing as if there were no reasons for our economic predicament for which he is responsible. I say that the Government just do not know how to make the private sector economy work. They do not understand the private sector. They are obsessed with this public sector notion of the economy. They do not understand the finance centre. If they feel that they need do nothing about the fast launch activity, if they do not understand the damage that that does to the finance centre if they do not understand the damage that public rows of this kind with the British Government does to the finance centre, if they do not understand that, they do not understand what a finance centre is. And they do not understand what a tourist industry is. They do not understand the needs of the business community today. They do not understand either the training needs of workers today and I say to them that Gibraltar can no longer afford them in government. Never mind the casual throwaway remark this morning by the Chief Minister that the economy is set solidly. I say that they are presiding over the economic, political and social ruination of Gibraltar. I say that the electorate now realises this and no longer trusts them to conduct the affairs of this community. If I can just borrow their 1988 election slogan, and adapt it slightly, they must realise what the electorate has already realised and that is that it is time for another change.

Mr Speaker, before I sit down and in protest at the Chief Minister's refusal to make public to the people of Gibraltar the list of measures which are at the heart of what he has said is a constitutional crisis against which he has had to take measures to prevent direct rule and on which the British Government refuses to rule out the

possibility of direct rule, the official Opposition will now withdraw from the House. We will take no further part in the debate on the estimates on the Appropriation Bill and the remainder of the speeches that we were going to make on a departmental basis will be brought to this House by us as substantive motions at the next possible opportunity which is either this meeting, if it is not now adjourned sine die, or the next meeting if it is adjourned sine die.

MR SPEAKER:

I would just like to remind the hon Member that it is contrary to the rules to revive issues that have been debated and therefore he has got to be very careful how he presents that.

HON P R CARUANA:

Mr Speaker, if I bring a substantive motion noting the failure of the Government's tourism policy I can then say about tourism whatever I like.

MR SPEAKER:

All I am saying is that I am just letting you know that that is the position. Therefore, you should take that into account if you want to bring a motion to be debated in the House.

HON J C PEREZ:

Mr Speaker, they always ask for information. We always give it to them. The fact that they are leaving makes the passing of the Estimates much easier for everybody and, if anything, the Chief Minister and the Financial and Development Secretary can have the last word.

MR SPEAKER:

The Minister does not want to speak?

HON J C PEREZ:

Mr Speaker, as I see it, since the whole effort that we do here is to give an account of what the Estimates are for and the expenditure is for, for the coming year and the programme of works that are planned for the coming year in order to give the Opposition the ability to monitor that programme during the year and to reply to the points, since they have left - perhaps because it is a long weekend and they need to go off to their own respective summer houses - I do not think and they are going to bring all the issues back and repeat themselves

in the same way as the Leader of the Opposition has been repeating himself for the past four years on the same issues, I do not think it is relevant that we should continue on that basis.

MR SPEAKER:

That is your prerogative and privilege. All I am saying is of course that whatever you say will be recorded in the Hansard. It will be there for the record if you wish so to do.

HON P CUMMING:

Mr Speaker, some months ago the Chief Minister said that he was trying to have me thrown out of this House by appealing to section 30 of the Constitution which refers to people of unsound mind. It seems to me that now this section applies to him because he thinks that he is going to lance the boil when in fact he is the boil that is going to be lanced. In checking the Constitution in the despatch to the Governor from the Foreign Secretary making the Constitution come into force is says "The successful operation of the new Constitution will depend on a continuance of the harmonious cooperation and working relationships at all levels that have characterised the public affairs of Gibraltar in the past". It is a pity that the phrase is in the past because it is no longer the case. I would like to refer very briefly in response to some of the things that the Chief Minister has said. First of all I welcome greatly the 97 per cent collection of Pay as You Earn. The previous situation was intolerable and I am very glad that this is now up to date. The improvement of the number of Gibraltarians employed in construction is also welcome. There is still much ground for improvement but still there has been improvement and the Chief Minister's dedication to the principle of parity with UK I also find very welcome. The Chief Minister presented the question of lack of growth with great calmness and phlegm and this lack of growth, of course, includes income from the launches but it seems we are shortly to lose and he blames extraneous events outside our control for the lack of growth. Most of these events are outside our control but they are not outside our influence if we were able to enter into dialogue at all levels. The Chief Minister in the budget of 1992 said that in this term of office the GDP had to grow from £300 million to £450 million to maintain the 14,000 jobs and to stand in the same place. He said that the calculations were on the level and that it was not with a rosy picture, this was, I remember the phrase "bar Armageddon" that this would be met. Of course he never made a reference to an Armageddon that was going to be self-inflicted. I must also refer to

some remarks that the Chief Minister made this morning about relations with trade unions. I take exception as a past union member and shop steward to his cynical reference to the number of times the tea break of the workers had been sold, and his great love now of the profit motive as the incentive for productivity and it seems to me that if he was ever a socialist now he is a right wing monetarist Thatcherite and on top of that a cynic. His theories about productivity and the profit motive in fact are contradicted in management courses where it is said that involving the workforce in decision process and giving them a feeling of responsibility and self-esteem and satisfaction in the work is in fact the greatest motivator and not the salary. That is with reference to research and this is in management studies what is presented.

To get back then to my own speech proper, Mr Speaker, in the GSLP manifesto of the last election it says "As the European Community evolves following the Union Treaty there is a requirement to revise the 1969 Constitution to make sure that the implementation of Community Directives remain under local control" and when these doctrines were first promulgated I think everybody agreed with them 100 per cent. I remain myself on a television debate defending this proposition, because otherwise we were going to go backwards because powers given on domestic issues under the Constitution were now going to be taken back to the UK via this mechanism. We all agreed but it seems that in these few sentences already in seed form is the problem which has led to the present crisis. It seems to me that the Chief Minister misunderstands the obligations with reference to implementing Community legislation. I think with our Chief Minister whenever he misunderstands things it is on purpose that he misunderstands things. He thinks that these directives are optional and because Europe cannot do anything to us for failing to implementing these directives (they can only do it to Britain) therefore implementing for us is not obligatory. This attitude surfaced when the European Court ordered that we had to repay £0.5 million of family allowances to Spaniards and the attitude then was that we would not pay that and that Britain would have to make itself responsible if it wanted to. So, the whole point, as it says here in the manifesto about these directives being under local control, is that there is very little scope for local control in any country because these are centralised European directives for everybody so that throughout Europe there are basic standards for dealing with a whole lot of aspects of the lives of European s. Now it is true that the Leader of the Opposition has highlighted that we suffer from a chronic lack of information but there is an additional problem. We also suffer from a provision of misinformation. Now very

often the laws that we have to pass are so technical that we have to rely on technicians - on their good faith and their integrity that these are things that need to be done and take on their word but occasionally one has a little knowledge about it and can arrive at one's own conclusions. It so happens that one of the laws that we passed just a few weeks' ago it seems to me that because of my own professional background in teaching nurses I understand this issue more than most of the other hon Members of the House. I refer to the directives of Euratom. The way that this was presented to the House and to the people of Gibraltar was misinformation and misleading the people. This Bill was presented by the Government very reluctantly and following their line of saying "This is unfair that the British Government forces this law upon us because we should be able to choose our priorities and direct our resources to the priorities that we choose, not the ones that the British Government chose to impose on us. After all this is talking about nuclear power and we do not have any nuclear power stations and therefore it is irrelevant". Of course the Opposition fell for that line and the Leader of the Opposition actually said that he had recently been for an x-ray and he felt perfectly safe. It seems to me an ignorant remark. He is not here to defend himself but still that was the attitude that the House took to that law. At those moments most of this passed me by because I was getting very nervous because I had a speech to deliver straight after but afterwards at home I was going over it and said this was all nonsense because the Bill was referred to in the famous debate last week between the Minister for Government Services and the Leader of the Opposition and a journalist on television saying, for example, "The nuclear law, why do we not just pass it and then forget about it because it is irrelevant," but it is not irrelevant, Mr Speaker. This Bill confers powers for the protection for the health of the general public. It is a vital issue, the protection of the health of the general public, or workers and persons undergoing medical examinations. To protect the health of people from radiation. This is not optional for Gibraltar for us to exercise control over it and it is not optional for UK. This is mandatory in all European countries so that in all of Europe wherever someone goes for an x-ray or for medical treatment or workers who have to work with x-rays can be safe from the dangers of radiation. The administration of morphine on large quantities is very dangerous and in our hospitals there is a large quantity of morphine being administered but it is very strictly regulated by law and inspected and supervised and consequently it never goes wrong but it is horrifying to think that something so dangerous as radiation is given free rein. It is never inspected, it is never controlled, any crackpot can buy an x-ray machine, not

look after it, have it leaking radiation and put the health of the general public at risk. This is a serious matter in which we are not given an option because Europe has decided this is a law for all Europeans to protect our health so what are misleading the people on the value of this law? "So there we are this is one of those nonsense things that the British Government forces on us." This is to mislead the people. The other law that we passed only a couple of weeks ago is the Antarctic Ordinance and this was the Ordinance very late at night when we were all very tired when the Leader of the Opposition discovered that it was going to come into effect when the Government decided and not the Governor and then we discovered another source of confrontation with the British Government.

MR SPEAKER:

I must draw attention to the House that the quorum is five, excluding the Speaker. If we get to that stage I will have to clear the gallery and ask all the strangers to go. We wait two minutes until we start again with another quorum so I think we have to be careful what we do.

HON P CUMMING:

Mr Speaker, the Antarctic Ordinance surely we are not going to have a confrontation with our friends in UK over such an irrelevance as the Antarctic Ordinance. This Ordinance applies for the legislation for permits for Gibraltar expeditions to Antarctica, for Gibraltar stations in Antarctica, for protection of the fauna and flora of Antarctica. By what logic are we going to use this Ordinance to fall out with UK? The British Government says that after all we discovered a loophole that puts our ...

MR SPEAKER:

Perhaps I should tell the hon Member that the Bill has not been passed by the House.

HON P CUMMING:

This is a source of confrontation and conflict. The Antarctic Ordinance that has no interest for the man in the street cannot be allowed to be one of the obstacles to a good relationship with Britain because it is nonsense. The British Government have said that there is a loophole here which puts the national interests at risk so what do we care? We just pass whatever they say and not use this and the other two ordinances that have

aspects of it which displease the British Government and do not bother us in the slightest. So it is really looking for trouble to use these ordinances for problems with UK. We know that one of the ordinances that is required to be implemented says it concerns putting public contracts out to tender and this is something that Gibraltar will have an interest in so that, for example, the handling of the contract to CEPSA on a secret way will not be permitted by European law when this law is implemented. The trade unions also have great interest in some of the laws that are on line because some of them concern maternity leave and things that they are struggling to obtain anyway and things that are obligatory throughout Europe. Why should we be a third class European nation? We also want to enjoy the basic standards which apply across Europe. Twice whilst I have been in this House, the Chief Minister has said with reference to something that I have said. "Amongst all the rubbish that Mr Cumming has been speaking there is nonetheless one sensible sentence." One of them referred to something that I said about nurses' overtime where I said that half of that money could be used to employ 10 extra enrolled nurses and the other half of the money to maintain the flexibility of manpower that overtime gives. The Chief Minister pounced on that and said "Very sensible thing to say." Of course my reaction to that was not to be flattered by him praising one thing that I had said but to be very alarmed because knowing the Chief Minister he was going to use it to cut nurses' overtime and to blame it on me. So when the Leader of the Opposition in the last debate said "If the all crimes basis to the Drug Trafficking Ordinance is brought into effect it is going to kill the finance centre." He pounced on that because they are going to use now the Leader of the Opposition so people will believe that this is going to kill the finance centre if this law goes ahead as the British Government want. As I have realised that the Antarctic Ordinance is not at all the way it was presented to the people I ask myself "Can it be that this misinformation also applies to the extension of the Drug Trafficking Ordinance to an all crimes basis?" After all I am a layman totally in these matters but one has a little bit of common sense. Mr Davis has said yesterday "How can it be in Gibraltar's interests for dirty money to flow in the finance centre?" dirty money obviously is money from drugs smuggling, money from prostitution, money from terrorism and all those dreadful things and none of us can possibly want that. But now the Leader of the Opposition said "Yes but that is extended to fiscal crime then we have had it because finance centres we all know in a perfect world there would not be any because everybody would pay their due taxes and keep their money where it can be accounted for

to the income tax departments and so on". So it is inconceivable that income tax departments over the world would start to track down individuals' money across the world. One, because it is totally impractical and enormously expensive and it just could not be done. So the question that fiscal crime is going to be pursued by force and by prosecution over the world is simply a nonsense. A fiscal crime surely is not dirty money because if I take my gratuity and I invest it in London and the bank manager says "Where did you get this money from?" but I prove to him that it is honest money from the sweat of my brow they realise it is not dirty money and they take it in. When that money begins to accumulate interest that interest is not dirty money even if I fail to pay income tax in Gibraltar. So there is a lot of misrepresentation about the aspect here of this all crimes basis. It seems to me that there is no threat to the finance centre from extending this to an all crimes basis. There is going to be good for the finance centre and not bad points. The arguments that have been put forward about killing off the finance centre I think are false. I think that the Government have tended to use the Leader of the Opposition on this issue.

I want to turn, Mr Speaker, to the question of democratic deficit. The accusations against me. The Chief Minister has complained of the dirty tricks department of the UK Foreign Office against him and I do not doubt that there is some element of truth in that but the thing is that the GSLP Government also have their dirty tricks department and it certainly has not hesitated to use that department against me on many occasions. The last occasion that they did was the misinformation about my status in this House by implying to the people that somehow my status here was illegitimate because I had not stood on the ticket for the things that I was saying. All that I have done is to present the Brussels process, to evolve a philosophy and to extend the philosophy about the purposes of the Brussels process and to think aloud around it. This is the ticket on which I stood, just because the GSD refused to talk about the Brussels process for 18 months against my will the people may have forgotten that that was the ticket on which I stood. In the same way as the Chief Minister levelled against me a democratic deficit on the activities that I was involved so, now I say to the Chief Minister that he has no democratic right to bring upon our heads direct rule from the UK because he has no mandate. He should call a general election now and go to the people and say to them "Look, I want to lance the boil and I want a mandate from you to do it". If he has the courage of his convictions that is what he will have to do. He has no mandate from the people to bring upon our heads direct rule from the UK. I think we have heard in the House what his

intentions are. Is he going to back down or is he not going to back down? Because on one sentence he said he is going to back down and in the other sentence he says that he is not. What he is going to do is to continue to exercise brinkmanship right up to the end. He is gambling, in other words, with the constitutional advancements that we have made in the past and the consequences of direct rule are simply incalculable. We do not know how much damage can be done to our national position by it and all of us see it as a disaster and as a tragedy and yet the Chief Minister persists in the brinkmanship that can bring this about our heads without a mandate from the people. There is a definite democratic deficit I this policy of his. He has no mandate from the people for it and he should go to an election now and say "Back me in lancing this boil." I have no doubt that the contrary is true. He is the boil that is going to be lanced. He is not going to do any lancing of any boils. When I was first interviewed, Mr Speaker, on GBC four or five years ago as a prospective candidate to election to this House I said then I was standing because I was worried about the prospect of confrontation not just with Spain but with Britain. These aspects were getting worse. I never realised how prophetic those words were and I still find it hard to believe that we could have come this far down that road, a road which no Gibraltarian wants to go on. The truth is that confrontation is a way of life for the Chief Minister. He started his political career with this and he is going to end it with this. The first constitutional crisis that was threatened was within days of being elected in 1988. It passed most of the electorate by but it did not pass me by because I was in fact the subject of that constitutional crisis for it was totally unprecedented for a Deputy Governor to come out on television and say "Look, I am the head of the civil service and anybody with any complaints about how they are being treated must come to me and I will deal with it" but he backed down and never again has that point been heard. If it had not been for Sir Peter Terry who put pen to paper and lifted from my head the suspension that had been put on me and the disciplinary processes because he saw that they were totally unfair, I would have been in a very bad position. So it is that I know a lady who at election time says "I vote for the Governor." I do not know how she goes about it, in practice, but she always says at election time "I vote for the Governor". I have to understand something of that philosophy when in my own flesh I have felt it, injustice, total injustice, from my own Government and had to go to the Governor for justice and fairness. All Gibraltarians know that the Governors come and we have been very lucky with our last few Governors that as we say in Spanish "They do not marry anybody" and they have no family or friends or

business interests and they can go by the ideal of fair play especially the military governors who are used to being leaders of men and know that it is very important for people not to feel aggrieved by how they are treated. Confrontation started and the threat of constitutional crisis from the very first days of the GSLP in office in 1988. Already threatening, saying to the Deputy Governor "Look, you want to be in charge of the discipline of the civil service then you pay for the civil service but since I pay for it I distribute the justice and the discipline in the civil service". So, the British Government, backed down and backed down and backed down over the issue then of, for example, the downgrading of the post of Attorney-General and Financial and Development Secretary that were downgraded from the post of ministers in the Government to the post of servants of the Government. The downgrading of the Public Service Commission. The humiliation of Governor Reffell in public when he said that he was going to do something about the launches. The breaking of the spirit of the Constitution that required that every penny of revenue and expenditure should be accounted for in this House. The spirit of the constitution required that and it was always obeyed until then. I never understood quite why the British Government went along with that. They backed down. They have never approved of it but they accepted it and they backed down. So, every time there has been a confrontation the Chief Minister has stepped forward and the British Government have stepped back. A lot of the de fact constitutional advance that we enjoyed could actually have been welcomed by the people of Gibraltar as a constitutional advance. The only problem was that this constitutional advance has been bought at a very high price and the price has been loss of support of Gibraltar by the Foreign Office, by the British Parliament and the British press and that price has been simply too high to pay because these advances could have been brought about in other ways.

Mr Speaker, this brings me to the problems at the frontier. We have to ask ourselves, because also here there is a lot of misinformation, are the problems at the frontier a move by Spain to recover sovereignty? We all know that every action that Spain does concerning Gibraltar is coloured and conditioned by a sovereignty claim but they have made very clear that the upping of the stakes at the frontier are directed to put political pressure on us so that we will take action on the launches. I know that diplomacy forbids the linking of the two issues and Mr Davis has been very careful to separate the two issues of Schengen and pressure on Spain and the question of the launches. But we know that they are entirely linked and the real cause of the problem is that Spain has come to a decision. Spain has decided

that it will not tolerate the launches any longer and it is going to up the stakes until something is done. Stakes that will involve Britain in serious confrontations with Spain which they are very anxious to avoid. Serious breakdowns of relation sin Europe and they are talking about naval blockades and sanctions against Britain and Gibraltar. It seems that Britain has determined that now is the time that something must be done so that all these mutual provocations can be dissipated. It is true, as has been frequently pointed out, that the tobacco and drugs that are smuggled by people who use Gibraltar as a base is a tiny amount in proportion to what is taken directly from Spain and Morocco by Spaniards and Moroccans. But it is not just the quantity of smuggling which provokes the Spanish Government. It is the open acquiescence of the GSLP Government to what goes on in the launch activity that provokes them and the British press have gone one step further and have said that what provokes the Spanish Government is the collusion of the Government of Gibraltar. I do not go that far because I do not believe and I have no evidence that there is collusion but certainly there is acquiescence and tolerance. The time is past, we have gone beyond the point when we must choose between protecting the Main Street trade and the launches because obviously they cannot both survive. We have gone beyond that point. Now we have to choose between banning the launches and direct rule. That has been made very clear by Mr Howell, the Chairman of the Foreign Affairs Committee in the House of Commons, that this is one of the conditions to avoid direct rule. Now, Mr Speaker, it may well be that the Chief Minister wants the Governor to do his dirty work for him so that then he can turn to his storm troopers and say "Look, I am sorry chaps it was not me that spoilt the launch activity for you, it was the Governor" and it may be in his interests to leave it for the Governor to grasp this nettle. But what is certainly true is that the Government have been monumentally irresponsible in letting the problem get as big as it has so that it brings disgrace to Gibraltar internationally. The misinformation in which the Government excel has also been felt in the economic field where the Government have misled the people about our economic prospects and refused to make any linkage between economic expectations and our relationship with UK and Spain and this is something that the people of Gibraltar must come to terms with. Unless we have a good relationship with Britain and with Spain we cannot expect our economy to flourish.

The statements that the Chief Minister has been making, if we compare the statements that he has made in the last year to the statements he was making in 1992 about the economy, there is a marked contrast. It seems that he is

coming to accept some of the harsh realities of our situation. Otherwise it would be inexplicable that he should go to Madrid and say there to the Spaniards that Gibraltar's efforts at attaining economic viability are increasingly being hampered by Spain for political reasons. We all know that but to accept that our economic viability is at stake; that our economy is being swamped by Spain and instead of turning round to the Gibraltarians and saying it to them face to face to go to Madrid and to say it there. If I had done that I would have been lynched. But the Chief Minister feels free to go to Madrid and to say that and he goes with a conciliatory tone and I welcome that. It is great. He asks for a new approach to find a modern day formula and I think that is great. He says to the Spaniards in Madrid "Gibraltar is prepared to recognise that Spain has been pursuing a long-standing claim for the sovereignty of the Rock". He is prepared to make a concession to them and say "We accept the reality of your claim and we are going to come to terms with it but you, on the other hand, must recognise our existence as a people" and once again that is great and I congratulate him on that stand. It is a stand of mutual concessions and I congratulate him on that stand and that conciliatory tone and that attempt and hope for finding a formula for our future with reference to Spain. Because he has sat on the Queen of Spain's chair and enclosed himself in a position that he rejects the Brussels process and anything remotely linked to the Brussels process, the Queen of Spain it is said, once upon a time, sat on the mountain across there and said she would never come down until she saw the Spanish flag over the Rock. She made a mistake of judgement and then she had to be hoping that someone would come and rescue her and no one unfortunately is going to come and rescue the Chief Minister from his predicament. He is going to have to face realities and accept as I do that the Siglo XXI Club is not a good forum for a conciliatory initiative in Madrid, that the Brussels process is a far more expective forum for this kind of initiative.

Mr Speaker, on the question of the airport, it practically passed by Gibraltar's awareness but a few weeks ago Sr Ruperez, spokesman for foreign affairs of the Partido Popular, was interviewed by AREA and he spoke about the airport and he said that his party has given up any intention of sharing our airport with us, that the Partido Popular have now decided to build their own airport in the Campo Area. Many people laugh it off but if they go ahead with this project it means that we can kiss goodbye to our airport because the use of our airport will become so prohibitively expensive that it will have to close. We know that there is four years left of the present contract to run and we have no

guarantee that Britain will continue to pay for the airport beyond four years' time. The Partido Popular, who is very likely to come into power, is now saying that they have no further interest in a joint venture with us in the airport. This means that we can kiss goodbye to passenger tax, landing tax, tax on aviation fuel and to all the jobs that go with our airport and all the increasing jobs that would go if our airport were to flourish. This is a very large amount of income which Gibraltar will be saying goodbye to permanently if Spain do actually start to build an airport in the area because we ourselves will be the first to go across to the Campo and use their airport because it will be cheaper than ours.

The Chief Minister in the United Nations has distinguished between recognition of the principle of self-determination and the exercise of that self-determination. The Government have accepted that the exercise of self-determination will require discussions with Spain and acceptance of Spain by the method by which we will exercise self-determination. So all the suffering that we are going through and all the stress that we are going through is really for an abstract principle because what is really important to us is not the principle but the exercise in the flesh of self-determination and the sooner that we get down to including Spain in the argument and discussion the sooner that we will be able to enjoy some aspect of self-determination.

I just want to sum up what I have been saying in a few sentences in conclusion. The first point that I have made in my remarks is that we are suffering from severe lack of information. We are also suffering from the provision of misinformation. The Government are distorting some of the information that they present to the people. I have said, Mr Speaker, that there is evidence of bloodmindedness in the Chief Minister's relations with the UK. For example, I would never have thought it possible that a Chief Minister of Gibraltar passing through London for whatever reason, who was asked to pop in to the Foreign Office would refuse to do so and yet we had the Hon Mr Bossano on television saying that if he had known what the meeting was for he would have refused to go. He went on the understanding that it was for something else. Surely, Mr Speaker, nobody would have thought possible that a Chief Minister of Gibraltar in London, asked to pop in to speak to the Foreign Secretary could possibly consider refusing to do so. Evidence, therefore, for the people that the Chief Minister is being awkward, at least, in his relations with Britain. There is a very important democratic deficit on the part of the GSLP in provoking the risk of direct rule. The

Government's attitude of confrontation loses support for Gibraltar. The Government's acquiescence to the launches gives intolerable provocation to Spain, and, finally, the point that I have made, Mr Speaker, is that Brussels is a better forum for discussion than the Siglo XXI Club. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, in replying on the Estimates of Expenditure for the Government I will not be dealing with the ranting and ravings of the hon Member of unsound mind. I leave the public to judge ... [HON P CUMMING: Which hon Member is that, Mr Speaker?] I leave the public to judge having heard him, the kind of service he is going by continuing in this House. I therefore will go to the only views that have been expressed by the Opposition in respect of the Estimates of Expenditure. In fact, the bulk of the contribution of the Leader of the Opposition was not about the Estimates of Expenditure of this year but about a selective choice of picking on comments of the Principal Auditor in the last report tabled in this House. If it had come from someone else one might have thought that it was something that was done through ignorance of the role of the Principal Auditor or through ignorance of what the implications of those comments are but that is not possible from the Hon Mr Caruana who understands how he is deliberately and with malice and forethought twisting the comments of the Principal Auditor virtually verging on the suggestion that the elected Government somehow in 1992/93 permitted what he calls illegal, scandalous, dishonest, malpractices by senior civil servants. Those are the words that he used. Is it that this is the first time that the Leader of the Opposition has taken the trouble to read the report of the Principal Auditor? I would therefore like to draw the attention of the House and particularly the attention of the public that have been listening to the debate in the House, to the comments of the Principal Auditor in 1988 when we came in to office. Therefore, to demonstrate that the same comments have appeared with regularity every year since 1988 and most years prior to 1988 and when, as Leader of the Opposition, we had discussions in this House about the comments of the Principal Auditor never, ever did I or to my knowledge any previous Opposition conclude that some illegal and scandalous activity was taking place perpetrated by civil servants because of those comments. I have to say to the House that the comment that expenditure had been used by controlling officers without the necessary appropriation, as provided for in the Constitution, was there in 1988 and was there prior to 1988. I have to tell the House that in the year 1987/88 the Principal Auditor commented that 17 controlling officers did not obtain the authority

of the Financial and Development Secretary to use savings available in some subheads of the Consolidated Fund to cover excesses in others and the statement of that unauthorised expenditure in that particular year was £345,000. That did not mean that somebody stole £345,000 in 1988. It did not mean that we should have thought then or in previous years that that meant somehow that the then elected Government of Gibraltar, with whom we had many policy differences, were somehow organising or uncaring whichever way we want to put it, for people to do what they liked with public money. What it does show is that there has been, as the Principal Auditor has pointed out year after year, a failure to follow the procedures laid down in which need to be corrected and on which steps have been introduced periodically to have them corrected and which tend then to lapse after they have been corrected unless somebody is on top of it and, of course, that is what we have a Principal Auditor for. The Principal Auditor is there for the purpose of checking that proper procedures are being followed and for identifying when they are not followed so that they can put that right but the Leader of the Opposition has said that people can draw their own inferences from this and that when I say that the GSLP Government do not support the creation of a public accounts committee, which was also the position of the GSLP Opposition, people can draw their inference from that and the inference that he is inviting the public to draw is that because we are manifestly a bunch of crooks in Government, we did not want a public account committee to be created so that our corruption cannot be discovered which must follow that when we were in the Opposition we were such enlightened crooks that we did not want a public accounts committee then to discover how corrupt the then Government were presumably. The reality of it is that we have maintained consistency in our policies today like we have had when we were in Opposition. The truth of the matter is that in terms of political integrity the level of dishonesty in terms of political integrity for which the Hon Mr Caruana has been responsible since he arrived in this House is without precedent in the history of politics in Gibraltar. The truth of the matter, Mr Speaker, is that in 1992 the dirtiest gutter politics ever seen in Gibraltar's history featured throughout the campaign and that in the morning of the Mackintosh Hall after the results when three quarters of the population rejected the assault on the integrity and the honesty and the commitment of people who had been in public life for years - while he was in public school in England - defending the interests of the people of Gibraltar they rejected that insidious campaign and I invited the Opposition Member in 1992 to accept that the election campaign was over. To accept that whilst maintaining his right of independence as an

opposition he should work with the Government for the benefit of our city and the benefit of our people. That invitation was never taken up and in fact the campaign has continued incessantly. As I have said so many times in this House it is not that we want to muzzle anybody but when he talks about the image of Gibraltar, then I accuse him with his political ambition of putting at risk the image of Gibraltar and of being engaged in persistent, never-ending, attempts at character assassination irrespective of the damage that that may do. Fortunately, the damage is limited because he is not believed, because he has got no credibility and because he will never have it. At the end of the day we will defend our record with the people in an election as we are obliged to do because we are a democracy and the people will decide whether they consider that the destiny of our country, the management of our finances and the development of our economy are better in the hands of somebody that stands up in this House and makes a speech against the extension of money laundering on an all crimes basis, not on the constitutional point that is it right that the UK should require us to do something that our competitors in Luxembourg are not doing but is it going to be something that is going to reduce the ability of lawyers to look after the investment of their clients funds? The Opposition Member's argument on money laundering was exclusively the argument, not of a political leader looking at the philosophy, but the argument of a lawyer who does not look too closely at his client's money and who wants to be able to continue doing that. He presented a case here of the special relationship between the investor and the legal adviser which verged on the secret of the confessional. He was saying to the House that what we cannot have is that if somebody says here to a lawyer that he wants to put an investment and the money has been because he has got the results of the great train robbery in the UK and the lawyer suspects this, the lawyer should simply say to him "Look, I would rather not handle your money, go to someone else who may be less sensitive than me" but he should not then go on and report the event and it should not be a crime that he fails to report the event because that bridges the secretness of client-lawyer confidentiality. That is the man that pretends to defend the interests of the people of Gibraltar and has the gall to accuse us when we have been doing precisely that since we got involved in politics 30 years ago.

Mr Speaker, the Leader of the Opposition, in his attack today on the Government, has demonstrated that he does not care and that he does not know what he is talking about three quarters of the time. He says the economy is in a very bad shape and at the same time insinuates that we are overflowing with money stuck away in all sorts of

nooks and crannies and that we have got dozens of rainy day funds. He claims that if the Savings Bank has reserves then all we need to do is somehow rearrange the deposit and we can mobilise those reserves. If we are so well off, as he claims that we are, how come the private sector is so badly of which is the worth-generating sector in the economy? The private sector today employs 9,000 people and in 1998 it employed 6,000 people and there has been a 50 per cent increase in the numbers of employees and the level of company tax collected last year was £14 million and in 1988 it was £2.5 million. It may well be that in 1988 before we got in they were getting away with murder and not paying any taxes. But nevertheless part of it must be increased profitability. It cannot simply be because then there was a scandalous situation which we inherited. If people who ought to have been paying £14 million in 1987/88 were only paying £2 million then it would indicate that in 1987/88 there was in power a Government that were permitting businesses to get away with murder in not paying their taxes and relying entirely on the burden of taxation on wage earners. We never accused the Government of the day once about that. Never once, in all the years that we were in opposition. We never accused them once in terms of their integrity. We criticised their efficiency which is legitimate for an opposition to do. We do not dispute that there are difficulties in some sectors of the private sector as the Leader of the Opposition claims. We do not say that there are no difficulties but what we say is that the one who lives in any ivory tower is he and not only does he live in an ivory tower, he has never been outside the ivory tower. When he went to an election in 1992 he had to get a street map to discover where the workers lived in the Laguna or in the Varyl Begg Estates because he has never been there in his life. That is how much of an ivory tower he is in. If he lived in the real world he would not, as he does, consistently jump on every bandwagon because in the real world everybody knows that every businessman that has got five grammes of common sense always complains of how bad business is doing. I have never known anybody that said anything different, with open frontier, with closed frontier, with dockyard, without dockyard, they have always been having a very bad time, always. That is not something peculiar to human beings. I have known in 14 years in the union anybody coming to me from the workforce saying "I think I am getting too much pay". Everybody that I have known thinks that they are overworked and underpaid even if they just go in to clock in and go home and they still think they are underpaid and overworked. Every businessman, even if he makes a 100 per cent turnover and a 100 per cent profit thinks that why should he be making only a 100 per cent instead

of 200 per cent. Those are the realities and mature, experienced seasoned people, who have lived in the streets know how to introduce a certain level of scepticism when people are lobbying to defence their interests which is perfectly legitimate. It is legitimate for people to lobby and for people to put a very black picture and for people to try and get the Government to give them help or to reduce their taxes or to give them overtime. That is a legitimate thing to do but what one has when one has been around a long time, which he has not, is the ability to try and reduce what is exaggeration and what is real. But, of course, the Opposition Member does not care about any of that. He goes through his political performance in this House and outside the House by thinking that if he jumps on the latest outcry of the latest lobby then he can guarantee for himself a percentage of votes and he is wrong. He will never be able to do that because even the workers who demonstrate and with whom he has his picture taken showing his support for them do not trust him. They are right not to trust him because they know his heart is not in it, he has never cared for them and he does not want anything from them other than their votes.

HON P CUMMING:

Mr Speaker, on a point of order. The Chief Minister is imputing false motives to the Leader of the Opposition. That he is not trustworthy. That the workers cannot trust him. He is imputing false motives to the ...

MR SPEAKER:

I am afraid that that is a remark that he believes that he is not trusted. It is politically of course, that we are talking?

HON CHIEF MINISTER:

Politically, of course.

HON P CUMMING:

The Chief Minister is making a political accusation, not a personal one, against the Leader of the Opposition.

MR SPEAKER:

I imagine so, it is up to him, but I think that we are talking in political sense, that is the way I interpret it.

HON CHIEF MINISTER:

Mr Speaker, the Leader of the Opposition surfaces with each group expressing discontent in the false expectation that he will be able to con them into voting for him and they will not vote for him because they do not trust him. They are right not to trust him because the root of his philosophy goes back to when he was the election agent of the PAG. That is where he belongs and that is where he has always belonged and that is where his real interests lie. Today he has come out in the open on an issue where knowing the cause of friction between the Government of Gibraltar and the Government of the United Kingdom he has deliberately tried to move it to something else, and he has failed. That is why he is not here now because he has failed and he knows that he has failed. It is the height of irresponsibility to spend the whole year moaning about not getting enough information for the estimates and then to walk out when the estimates are being debated. Certainly, it will not make one iota of difference to the policies and the strategy which we have been elected by the people to carry out and for which we will answer to the people and no one else. Not to him, not to the British Government, not to the Spanish Government, not to anybody else. Not to him, not to the British Government, not to the Spanish Government, not to anybody else. If the Leader of the Opposition says that it is virtually sacrilege for me to say that I do not think Mr Major is providing good government for the United Kingdom, well, all I can tell the Leader of the Opposition is that what he shares with Mr Major is that they both seem to have the support of 20 per cent of the population, and that 80 per cent of the population of the United Kingdom appears to agree with me. As a free citizen in a British Colony, although I am not able to vote for the Government of the United Kingdom that have got reserve powers, that have to negotiate with Spain on my behalf, that have to represent me in the Common Market, I am presumably permitted, without the death penalty, to express a political view about their political competence. Or is it that we are so steeped in colonialism and fear and lack of self-confidence that it is perfectly alright for the British Government to say what they think is good government in Gibraltar to say what is good government in the United Kingdom. Is that the degree of our psychological subservice which is engrained in the alternative that the Leader of the Opposition presents to the people of Gibraltar? If that is the case then I can say that by comparison with him, the performance of Sir Joshua which he described as being a poodle, in my judgement is better described as being a rotweiller by comparison with the Hon Mr Caruana, I can tell the House that to my knowledge on more than one occasion when Sir Joshua had to stand his ground with the

UK Government he did and he came very near on more than one occasion to the point of brinkmanship. The one thing that never happened was that irrespective of the deep policy differences, whenever Sir Joshua made clear that he was facing that kind of problem the last thing I or any of my hon Colleagues ever did was to publicly criticise anything he was doing in any way that would weaken his position because we accepted that he was the representative of the whole of Gibraltar including us and that our responsibility was to keep our dirty washing in house. If we had to criticise him or we had to say he was following the wrong policy we said it to him face to face but what we did not do was stand up here and say "The Government of Gibraltar cannot win this one. I am prepared to go with the Government of Gibraltar to London to fight the British Government but I am making a public declaration that we are going to lose it and that the people are not behind us and that nobody wants it." Well, thank you very much for your support but it seems to me that my heart is considerably strengthened if I leave him behind. That is the alternative that the Opposition Member is offering the people of Gibraltar and he is offering it now because he keeps on predicting that we are only weeks away or months away from an election. We are not. It is the intention of the Government to complete our term of office and it is the intention of the Government to go to the people based on the work we have done, on the commitment that we have got, and our willingness to carry on working for them.

Mr Speaker, I arrived in the House in 1972 and the people of Gibraltar have wanted me to continue to be here and I will be here for as long as they want me and when they do not then I accept the decision of the majority if there is somebody else that they think can do better for Gibraltar and its people than I can. No problem, but what is sad to see is that at this stage in the development of our people we have a situation which has never existed before with the AACR in government or the AACR in opposition where the blind ambition of individuals override every consideration, override any respect for integrity, permit people to make use of statements in an auditor's report which have appeared there since time immemorial, every year and say that that is evidence of illegality, of malpractices, of dishonesty, that it is scandalous, that it is unconstitutional and that we are covering it up because all those accusations he is making against the civil servants that he supported in the demonstration in May in Casemates. We are the ones who have given a job guarantee for life to all the civil servants that the Hon Mr Caruana says have committed scandalous, illegal malpractices. It is not us who are doing any of this. The Principal Auditor is not saying the Minister did this

or the Minister did that. He says the departments did it and we welcome the fact that the Principal Auditor points to things that are not following the correct procedures but we categorically reject any insinuation that any of our civil servants have actually been committing illegal criminal activities. If there is somebody that claims that that is what the Principal Auditor is doing then he should claim it outside and not inside the House where an individual has got the right to defend himself or he should go to the police and say "I think this is something that requires a police investigation and people being arrested". As far as I am concerned we may have whatever disputes we want or not want for that matter with our civil servants, but we recognise that the vast majority for most of the time, are totally dedicated people, conscientiously doing a job and responding to the demands we make on them. We do not hide the fact that we have been making demands on them and that we intend to carry on doing it and that we expect them to say yes. If they do not like it and if they think that the Hon Mr Caruana is able to offer them this extraordinary scenario where he does not capitulate to Spanish demands, where he is not going to do a deal to sell us out, where he is not going to accept the airport agreement, where if he goes to the Brussels agreement it is simply under protest and to say no and leave the moment they mention sovereignty, where he is also going to reduce all the taxation, where he is going to do away with tobacco imports, where he is going to bring down the rates, where he is going to increase employment, he belongs in the World Bank, not in the House of Assembly. His talents are totally under-utilised here. I cannot produce those kinds of miracles and I do not pretend but what I can promise the people of Gibraltar is that we will honestly continue to defend their political and economic rights as we have done all our lives and that we are confident that when the time comes they will back us to the hilt and on that basis, I commend, Mr Speaker, the Appropriation Bill for 1995/96.

Question put. Agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

THE COMPANY SECURITIES (INSIDER DEALINGS) ORDINANCE 1995

HON M A FEETHAM:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to prohibit insider dealings in

securities and to provide for investigations into insider dealings and assistance of overseas regulatory authorities and thereby to transpose into the national law of Gibraltar, Council Directive 89/592/EEC be read a first time.

Question put. Agreed to.

HON M A FEETHAM:

Mr Speaker, I have the honour to move that the Bill be now read a second time. The object of this Bill is to provide for the transposition into the national laws of Gibraltar of Council Directive 89/592/EEC concerning insider dealings in transactions relating to securities. The Bill creates an offence of insider dealing and related offences in respect of failure to communicate information to the competent authority. Provision is made for the appointment of a competent authority for the purposes of the Directive and the Ordinances for cooperation between EEC states as provided for in the Directive. The Bill further deals with the powers of the authority under the Financial Services Ordinance 1989 to deal with a licensee convicted of an offence under the provisions introduced by the Bill. I commend the Bill to the House.

MR SPEAKER:

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

HON P CUMMING:

Mr Speaker, I understand this is one of the bills to which the British Government have some objection because it has loopholes for which they would be held responsible if anybody wishes to manipulate that loophole wrongly they would then have to be responsible. I do not know whether the Government would be willing to clarify that for me.

HON M A FEETHAM:

Mr Speaker, the Bill has been drafted by the Law Draftsman in consultation with the UK and the UK-appointed local official connected with this matter and in any case we have not got a stock exchange in Gibraltar.

Question put. The House voted.

The following hon Members voted in favour:

The Hon J Bossano
The Hon J E Pilcher
The Hon J L Baldachino
The Hon M A Feetham
The Hon J C Perez
The Hon R Mor
The Hon J L Moss
The Hon B Traynor
The Hon Miss K M Dawson

The following hon Member abstained:

The Hon P Cumming

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.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause:-

The Criminal Procedure (Amendment) Bill, 1995
The Protection of Trading Interests Bill, 1995
The Company Securities (Insider Dealings) Bill, 1995
The Appropriation (1995/96) Bill, 1995

THE APPROPRIATION (1995/96) BILL, 1995

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would simply like to register my disappointment, Mr Speaker, at my inability to answer the Leader of the Opposition on one of the few occasions when I am allowed to make a contribution on the question of the Government liquid reserves. He will have the record, I trust, of the proceedings and when the hon and learned Gentleman reads the Hansard he will see that at least I expressed willingness and that I was awake at the time.

I would not wish to bore my colleagues on this side of the House with an explanation. It will do when he asks the same questions next year, I think.

Clauses 1 to 4, the Schedule and the Long Title were agreed to and stood part of the Bill.

THE CRIMINAL PROCEDURE (AMENDMENT) BILL, 1995

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

THE PROTECTION OF TRADING INTERESTS BILL, 1995

Clauses 1 to 9 and the Long Title were agreed to and stood part of the Bill.

THE COMPANY SECURITIES (INSIDER DEALING) BILL, 1995

Clauses 1 to 19, Schedules 1 to 3 and the Long Title

The House voted:

The following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon Miss K M Dawson
The Hon B Traynor

The following hon Member abstained:

The Hon P Cumming

Clauses 1 to 19, Schedules 1 to 3 and the Long Title stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the following Bills have been considered in Committee and agreed to without amendments and I now move that they be read a third time and passed.

The Appropriation (1995/96) Bill, 1995
The Criminal Procedure (Amendment) Bill, 1995
The Protection of Trading Interests Bill, 1995
The Company Securities (Insider Dealings) Bill, 1995

Question put.

The Appropriation (1995/96) Bill 1995 was agreed to and passed.

The House voted on the Criminal Procedure (Amendment) Bill, 1995, the Protection of Trading Interests Bill 1995 and the Company Securities (Insider Dealing) Bill, 1995:

The following hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon Miss K M Dawson
The Hon B Traynor

The following hon Member abstained:

The Hon P Cumming

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn to Monday 3rd July 1995 at 2.30 p.m.

Question put. Agreed to.

The adjournment of the House was taken at 8.30 p.m. on Friday 26 May 1995.