

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

9TH FEBRUARY, 1996

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eleventh Meeting of the First Session of the Seventh House of Assembly held in the House of Assembly on Friday the 9th February 1996.

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 M 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

IN ATTENDANCE:

D Figueras Esq, RD - Clerk to the Assembly

PRAYER

Mr Speaker recited the prayer

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 30th November 1995, having been circulated to all Hon Members were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

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

1. Draft Estimates of Revenue and Expenditure for 1996/97.
2. Audited accounts of Gibraltar Community Care Limited for the years ended 30 June 1992 and 30 June 1993.
3. Report of the Registrar of Building Societies for the year ended 31st December 1994.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 3.10 pm.

Answers to questions continued.

BILLS

FIRST AND SECOND READINGS

THE COMPANIES (AMENDMENT) ORDINANCE 1996

HON CHIEF MINISTER:

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

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. The Bill brings in an amendment to section 295A of the principal Ordinance. We actually introduced the provisions in the Companies Ordinance allowing re-domiciliation from other jurisdictions into Gibraltar following representations from people in the company management and allied sectors of the finance industry as a facility that competing jurisdictions had and which we should provide for in our own system. Very recently there has been a development where it has been brought to our attention that the introduction of a special 5 per cent tax in the neighbouring country on properties owned

by Gibraltar companies had created a position where from the beginning of January this year a further amendment to Spanish law on the application of the special tax had had the effect on the one hand of reducing it from 5 to 3 per cent but on the other hand it had eliminated the possibility of applying for exemption. The original tax was based on the ability to avoid it if one could satisfy the authorities that the beneficial owners of the properties were not Spanish residents who were using Gibraltar in order to have a company as a front to evade the Spanish tax. So therefore although the tax was brought down from 5 to 3 per cent by removing the outlet of an exemption it meant that the remaining business because in fact the bulk of the business went the first time round because there were undoubtedly a lot of people who could not demonstrate the grounds for the exemption. It was as a result of that that the registration of new companies in 1992 and 1993 took a very sharp drop from something like 7,000 down to 4,000. What we have been told now is that the change that came in this January means that given that there is now no possibility of an exemption, the remaining business we have got here which could affect quite a number of company managers, some more than others depending on to what degree they specialised in this kind of business, could have an effect of creating in the first instance an exodus which could only happen by the company in Gibraltar having to be put into liquidation and the property transferred to its shareholders. Under the provisions that came in in January on the other side this would then trigger off, instead of three per cent a 10 per cent tax charge on the underlying shareholders in the company and therefore we have had representations that this will have (a) an effect of penalising the people who stayed with us and (b) act as a deterrent to the use of Gibraltar by potential investors wanting to have Gibraltar companies as vehicles because they would see a risk that tomorrow, out of the blue some other change might happen and they would suddenly be locked into a position which would make them liable for taxes they had not anticipated on the other side. It has been put to us that by making the provision of re-demociliation possible in both directions, that is that people should re-domicile outwards as well as inwards, clearly we only did it inwards in the first instance because what we wanted was that they should come to us rather than they should go somewhere else but that by making it possible in both directions, it should enable the companies that are trapped in that situation to avoid the cost of liquidating the company in Gibraltar to enable them to keep the Gibraltar company but re-domicile it in Spain and therefore retain some work here for people in the legal profession, the accountancy and in the company managers. Given the fact that it was brought to our

notice that people would not hang around that they would vote with their feet if we are not able to act very quickly to close this loophole we have brought this legislation which I hope will do the trick but which frankly all I can tell the House is that that is the rationale for it.

I commend the Bill to the House.

HON F VASQUEZ:

Yes, Mr Speaker, the Opposition will in fact be supporting this amendment to the Companies Ordinance. It is a relatively modern concept of company law that companies can re-domicile from jurisdiction to jurisdiction. Most respectable jurisdictions have actually incorporated this in their statutory company law and there is absolutely no reason why Gibraltar should not be the same and therefore for that reason we will be supporting it. One minor point that needs explaining to the rationale for the introduction of this law is to help those companies that are registered in Gibraltar owning properties in Spain, in fact, this is not necessary to avoid that problem because in fact a number of Gibraltar companies have already moved their management and control to Spain and by doing so have managed to secure the confirmation of the Spanish tax authorities that that is no longer considered an offshore company even though it is a Gibraltar company because it is managed and controlled in Spain by residents of Spain who hold company meetings in Spain that for Spanish tax purposes is treated as a Spanish company and is no longer subject to that unfair tax which has been imposed on property owning companies. That apart, the fact is that there is no reason at all why Gibraltar companies should not re-domicile and we will be supporting it with one comment. There are a couple of instances where we consider that the drafting of the Bill is deficient and I should be dealing with those in Committee Stage, but generally in terms of the issues and the philosophy of the Bill the Opposition is in agreement.

HON CHIEF MINISTER:

The only thing I can say is that anything that technically improves what it is intended to do we will be happy to take on board.

Question put, Agreed to.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE TRAFFIC (AMENDMENT) ORDINANCE 1996

HON J C PEREZ:

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

Question put. Agreed to.

SECOND READING

HON J C PEREZ:

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

The rule by which a bus was taken off the service after 12 years was introduced in 1988 by this Government shortly after we came in because of the state that the buses were in and the lack of investment that had taken place over the years. After having consulted with the police and the Traffic Commission on the matter we thought that the best way to deal with the matter, given that a lot of ex MOD buses were being put on the road to give a public service, was that one. Since then a substantial investment was made in the buses. There have been investments in two categories of buses. One which is not of a very expensive type which is not expected to have a long lease of life and others like the double deckers which are expected to have a much longer lease of life. Indeed, the information we have is that double deckers in London are sometimes operational for at least 50 or 60 years. Therefore, the legislation that we passed in 1988 was not adequate to meet the situation of today. We had representations from the bus operators. We had negotiations with them and we eventually agreed that we would be prepared to remove the rule by which buses had to be removed from the public service after 12 years, if they agreed that notwithstanding the fact that any police officer can at any time send a bus to have an MOT test that they would agree to forcibly conduct two MOT tests a year after the bus had been on the road for 12 years. They have agreed to do that and the authorities concerned and myself believe that that is an adequate way of ensuring that the buses on route are kept in an adequate condition for the public service. That is the reason for the removal of the Bill and it ought to be read in conjunction with regulations which are to be published shortly which are to include the exigency that buses over the age of 12 years should be MOT tested every six months instead of annually. This does not take away

the power of a traffic officer to stop a bus if it sees that it is in a bad state and send it to be tested on the spot at the time.

I commend the Bill to the House.

HON P R CARUANA:

The Opposition will abstain on this Bill pending sight of the regulations that the Minister has alluded to. We are not satisfied that removing an age restriction is conducive to an improvement in the quality of public transport in Gibraltar. Certainly there might be a case of raising it from 12 upwards but certainly to remove an age restriction altogether and leaving it to the discretion of public transport inspectors is not necessarily going to guarantee an improvement not just in the safety of vehicles which I suppose can be identified by an MOT test but indeed of the general appearance of vehicles which will not be enhanced the older that they get. I think that if we are trying to attract upmarket tourism to Gibraltar we have got to have public service vehicles which are not only safe but also new and give that impression of being new vehicles and in a good visual condition not just in a safe mechanical condition. It may well be that read in conjunction with the regulations which we have not yet seen and if the new regulations are applied strictly in practice then it may well be that some of the concerns that we hold will not materialise which is why we do not oppose the legislation but on the basis of the information that we have in front of us at the moment we do not feel able to positively support, therefore we will abstain.

HON COL E M BRITTO:

May I suggest to the Minister that when the regulations are being drafted, indeed if they have not already been done, if they have been done let it be included in them that when the buses are tested that apart from testing the actual engine, brakes, wheels, the usual mechanical things that are tested on such vehicles that attention be paid to the outside of the vehicles and specifically the roof of the vehicles. My understanding is that in some cases and specifically in some of the vehicles plying the route along Europa Road and towards the lighthouse that it is not only the houses at Westside that suffer from serious water ingress but that some of the buses on that route have been known, when it is raining heavily, to carry passengers sitting in the seats holding open umbrellas to keep off the water coming in in large amounts through the ceiling of the bus.

HON J C PEREZ:

The hon Members certainly do not seem to be aware that the legislation for public service vehicles already exists in order that the MOT tests take into account the state of the vehicles inside and outside other than the mechanical and technical faults. Definitely if there is a leak on any of the buses it is something that can be reported immediately and has to be put right immediately but knowing the hon Col Britto who has probably been the one using it, he chose to open the umbrella instead. The regulations are going to come out. There already exists regulations saying that all public service vehicles need to pass an MOT test every year. That MOT test is specified in the regulations and it is quite comprehensive and the only thing the regulation is going to say is that after a vehicle is 12 years old it shall have two MOT tests, one every six months. Let me tell the House that what is abnormal is the 12 year rule. What is the standard practice in every European country is an annual MOT test with the possibility of a traffic officer sending any vehicle at any given time to the MOT test in order to ensure that the standards are really adhered to in case there is any laxaty on the part of the enforcing agencies we are going to insist that they have two MOT tests a year in order to ensure it. But the situation, let me tell the House, has changed from one where because the business as a business is not a very good one and has not got a very big turnover the old operators of which one of the members of the House was an owner were not in a position to re-invest because at the time I think the bus fare was something like 15 pence. Yes, we are talking about Mr Francis, who was a member of the Hon Mr Caruana's party. They were insisting that the price of the bus in order to maintain standards should be increased and when the 12 year rule was indeed introduced it was introduced with an acceptance of an increase and since then the buses have increased twice and there has been a re-investment in the service and there have been new routes opened which are more lucrative and are getting more money into the business and therefore more is now being invested into the business which was not the case before so. Therefore the improvement in the service of the buses today is different to what it was when this administration introduced that rule in 1988. I take the point of hon Members but I thought I would inform them of the situation as at present. Thank you Mr Speaker.

Question put. The House voted.

For the Ayes:

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

Abstentions:

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 Bill was read a second time.

HON J C PEREZ:

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

Question put. Agreed to.

THE PENSIONS (WIDOWS AND ORPHANS) (AMENDMENT) ORDINANCE, 1996

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to amend the Pensions (Widows and Orphans) Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. This amendment is a highly technical amendment and not of general application. It applies only to what is properly known in the Government service as the WOPS scheme.

There is a comparable scheme in the United Kingdom called the WCPS and also something called WOOPS in the United Kingdom which refers to worn out and obsolete plant and stores. I sometimes think of myself as a worn out and obsolete plant and store.

Section 13 of the Widows and Orphans Pensions Ordinance has a sub-section (5) which is to be amended and the background to this is simply that when traditionally one had to contribute to the Widows and Orphans Pensions Scheme and this became compulsory once one was married whereas most of the other public service schemes in Gibraltar are non-contributory. But, of course, if when one left the service one was not married the contributions, which were 1.5 per cent of salary, were returned within interest at 3.5 per cent. However, subsequent to that particular part of the scheme being introduced which I think was introduced at the outset or a very long time ago in Gibraltar as it was in the UK with the reforms to pensions generally in the 1980's people who were already contributing to the WOPS, were given the permission to the compulsory nature of the contributions being taken away and they were allowed to decide themselves whether they wanted to contribute or not. So those who were already in the scheme were asked to elect; to say whether they wanted to stay in the scheme or whether they wanted to withdraw their contributions and they were given at the time, when this amendment was made, till 1990 to make up their minds. For various reasons which I will not go into, some people by the end of 1990 had not made up their minds so it really extends to the date of 1996 and that should cover virtually everybody who might have wanted to exercise his particular option (withdrawal of contributions) and had not yet had an opportunity. I am sorry if I have taken so long to explain this particular measure but I commend the Bill to the House.

HON P R CARUANA:

The Opposition is happy to support this Bill. Indeed, we are informed that the trade unions and the GTA have been pressing Government without success for some time to re-open this opt out period and that it is now being done at this point in time for reasons best known to the Government but still we are happy to support it now.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I do not think there is anything I can say in reply to that.

Question put. Agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1996

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. This particular Bill falls into two parts and the first one is the amendment of section 41 of the Income Tax Ordinance to lower the rate of the bottom of the range of the qualifying tax from 2 per cent which is at present the minimum, it ranges from 2 to 35 per cent or whatever the rate of corporation tax shall be, lower than to in effect zero. But in practical terms 1 per cent because it has been brought to the notice of the Government that we may be losing business to other jurisdictions who have a minimum qualifying rate of 1 per cent. The opportunity is being taken to remit at not less than 2 per cent with a view to making ourselves more competitive with those other jurisdictions. The second part of the amending Ordinance is self-explanatory by adding to the additional wording in the section 87 which enables the Government to make regulations adding the words shown in the text in clause 3 which, of course, brings in the question of recovery of amounts due and I think the description there is self-explanatory.

I commend the Bill to the House.

HON P R CARUANA:

The Opposition cannot support this Bill for reasons that I will now explain. We have no objection in principle to the first section but we think that the Bill does not have the effect that the Financial and Development Secretary intended to have. There is the removal of one reference to "at not less than 2 per cent of £1 and" but there are other references to the same formula elsewhere in section 41(4) unless of course I am looking at an old

version of it which I do not think is the case but I think if the Financial and Development Secretary wants to have the effect that he suggests I think the amendment that he needs to bring to section 41(4) of the Ordinance extends beyond those that the Bill actually covers and he may wish the opportunity for him and I to speak during the tea adjournment so that he can look into whether I am right or mistaken. But certainly I do not think it has the effect that the Financial and Development Secretary intends and as to the more important section of the Bill, that is the amendment to section 87, let us be clear, the Financial and Development Secretary does not explain this. The effect of that Bill is to give the Government the power to make regulations to make directors and shareholders of a company liable for unpaid PAYE. This follows no doubt a recent court case in which it was found that directors could not be made personally liable for unpaid PAYE. I believe that the law should make as tough as possible the regime that faces company directors who want to and without any justifiable reason fail to collect and forward workers' PAYE contributions. There might even be cases, I am willing to recognise, which justify breaking the basic principle of company law which is that shareholders are never responsible for the debts of the company. In certain cases of which I can think of one or two I think it might even be justified given the importance of this issue. It might even be justified, departing from the standard principle of company law, that a shareholder can never be responsible as opposed to a director there are circumstances in which a director can be responsible for a company's debts. Certainly for the Government to seek the support of the Opposition to do this by regulation when we do not know the details of what they intend to do is not acceptable to us. If they had brought substantive provisions to this House such as we could evaluate and see whether they fell within the parameters of the extension of liability to shareholders that we are willing to support then we might be able to support but certainly we are not willing to support a provision that simply gives the Government the power to publish in the Gazette regulations and decide what the regime should be of shareholder liability. There are some shareholders who have no part in the management of a company, who are sleeping shareholders, who may not even live in Gibraltar. There are other shareholders who may fall into a different category, who may be managing or shareholders involved in management and they may fall into a different category depending on what their reasons are. Therefore the power that the Government seek is in our judgement simply too wide by way of making regulations and this issue is such an important one as should be dealt within our judgement by principal legislation debated in this House and not be regulation.

For that reason at least that part of the Opposition that I lead, will be voting against this Bill.

HON CHIEF MINISTER:

I think we must not lose sight of the fact that however wide reaching the power, we are talking about money from employees which does not belong to the shareholders and does not belong to the company and does not belong to the director. It belongs to the employee or to the state and here we have somebody that the law effectively creates as a tax gatherer pocketing the taxes that he gathers. That is what this wide powers are about and therefore I do not think there can be any excuse of whether there are silent shareholders or not silent shareholders because at the end of the day if the company has assets then this does not come into play at all. This comes into play in a situation where we have moved against the company and the company by the time the system has caught up with it has disappeared over the horizon and left nothing behind. It is a minority of instances, but frankly I think it is important that we act against that minority. That is conducive to ensuring that the majority that are now collecting and handing in on a regular basis the PAYE of their employees. We have now got a situation, as I informed the House recently, where in fact by six months after the end of the tax year we have got virtually 97 per cent of the PAYE that is collected handed in and that actually compares quite favourably with UK and with other places. There is evidence to show that there tends to be a regular incidence of individuals who re-appear as shareholders and directors with newly-incorporated companies having disappeared from the old one.

HON P R CARUANA:

Would the Chief Minister give way?

We do not disagree that this is something that ought to be dealt with by legislation. I do not say that the legal regime should be such to make it easier rather than harder for people to do this and get away with it. I have no difficulty with the notion of a law that tightens up against that practice rather than facilitate it. What I am saying is that I think this House is the one that should debate the actual measures rather than simply say to the Government "We give you powers by regulation to put into place measures to make tax payable by the shareholders". We are not disagreeing on the principles. I am just saying that this is something that ought to be done by primary legislation and not by regulation in the Gazette. That is where we differ, nowhere else.

HON CHIEF MINISTER:

But I think the point surely is that when we discuss the measures, what we are discussing as politicians in the House is really the principle and the policy because the measures that are going to be introduced by regulation are the measures that the Commissioner of Income Tax will advise us are the most effective things to do. One of the things about the regulation is that if we find that we are advised that something will work and then we find it does not work we can put it right much quicker than we can with having to come to the House. The reality of it is that the provisions have been there in the principal Ordinance perhaps not extending it as far as shareholders for a very long time and they have not been found to be effective because as the hon Member often tells us the code of honour of the legal profession means that they are bound to accept clients even if they do not disagree with what their clients are getting up to, if that is pocketing PAYE, and there are of course lawyers who, bound by that code of honour, are clever enough to outwit our Income Tax Department and get their clients free and what we are trying to do is close the door. I give way.

HON P R CARUANA:

We do not outwit the Income Tax Department. We outwit the drafters of the legislation, which is why we want to have a hand in its drafting and not leaving it to them to reduce the chances that lawyers will be able to outwit them in the future.

HON CHIEF MINISTER:

Well, I am grateful for the hon Member's offer of assistance so that we are one step ahead of the lawyers and of course if I feel that he can do a better job of advising me when the regulations come to be done than the Commissioner of Income Tax I will bear that in mind and contact him.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I do not want to make any comment on the recent exchange between the Chief Minister and the Leader of the Opposition, but on the first point made by the Leader of the Opposition on section 41 if he thinks the Law Draftsman has missed something out or missed something I would be very grateful to take his further advice on this over the tea interval.

MR SPEAKER:

I do not know whether that will be possible because tea has been laid down for five o'clock and it is now half past four. So perhaps I do not know whether it is possible to make that arrangement.

Question put. The House voted.

For the Ayes:

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

The Hon P Cumming

For the Noes:

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put.

HON P R CARUANA:

One of the reasons why the Opposition has got to consent to a Bill going through all its stages in one day is precisely so that if a problem of this nature arises there is an opportunity to confer. If I say yes, if Mr Speaker does not advance by half an hour the tea break then we shall have to deal with this problem across the floor during the Committee Stage itself.

MR SPEAKER:

Unless we can recess for five minutes. If you can sort it out this way but the Chief Minister.....?

HON P R CARUANA:

Can I suggest that the House proceed to the Committee Stage of the other three Bills and in the three minutes that that will take I can confer outside with the Financial and Development Secretary?

MR SPEAKER:

Except that the Financial and Development Secretary will be required here for another Bill before this one.

Agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

1. The Companies (Amendment) Bill, 1996;
2. The Traffic (Amendment) Bill, 1996;
3. The Pensions (Widows and Orphans) (Amendment) Bill, 1996;
4. The Income Tax (Amendment) Bill, 1996.

THE COMPANIES (AMENDMENT) BILL, 1996

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

Clause 3

HON F VASQUEZ:

A very small point in relation to clause 3. I have just realised there appear to be two (a) and two (b). In the second (b) as drafted the Bill reads "in sub-section (2) by inserting before the word "regulation" the words "in respect of a company incorporated outside Gibraltar in a relevant State" and in fact that would make the reading of section 295A(2) of the principal Ordinance meaningless. My suggestion, and I have discussed it with

the Chief Minister, is that those words "in respect of a company incorporated outside Gibraltar in a relevant State" should appear after the word "regulation".

MR CHAIRMAN:

We have got to have this carefully in writing.

HON F VASQUEZ:

Yes, it is very straightforward. The second sub-section (b) be amended by substituting the word "before" and replacing it with the word "after".

HON CHIEF MINISTER:

In sub-clause 4 the hon Member has drawn my attention to a lack of clarity in the reference where it says "In this Part "relevant State" means a state having regulation of companies compatible with provisions of this Part and regulations made under this section and prescribed by the Governor" and it is possible grammatically to interpret the words "prescribed by the Governor" as referring either to the words "regulations" in the preceding line or the words "State" two lines above.

I have made enquiries and the answer is it is intended to refer to the word "State" and therefore for the avoidance of any doubt I am moving an amendment which will insert the words "which State is" between the words "and" and "prescribed" in the third line thereof. The clause would then read "In this Part "relevant State" means a state having regulation of companies compatible with the provisions of this Part and regulations made under this section and which State is prescribed by the Governor for the purposes of this Part".

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

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

THE TRAFFIC (AMENDMENT) BILL 199

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

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

THE PENSIONS (WIDOWS AND ORPHANS) (AMENDMENT) BILL, 1996

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

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

THE INCOME TAX (AMENDMENT) BILL, 1996

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker I have the honour to report that:

1. The Companies (Amendment) Bill, 1996, with amendment;
2. The Traffic (Amendment) Bill, 1996, without amendment;
3. The Pensions (Widows and Orphans) (Amendment) Bill, 1996, without amendment; and
4. The Income Tax (Amendment) Bill, 1996, without amendment

have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Question put.

(1) The Companies (Amendment) Bill 1996 and the Pensions (Widows and Orphans) (Amendment) Bill 1996 were agreed to and passed.

(2) The Traffic (Amendment) Bill 1996.

For the Ayes:

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 Miss K M Dawson
The Hon B Traynor

The Hon P Cumming

Abstained:

The Hon P R Caruana
The Hon Lt-Col E M Britto

The Hon F Vasquez
The Hon H Corby
The Hon M Ramagge

The Bill was read a third time and passed.

(3) The Income Tax (Amendment) Bill 1996

For the Ayes:

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 Miss K M Dawson
The Hon B Traynor

The Hon P Cumming

For the Noes:

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

The Bill was read a third time and passed.

The House recessed at 4.40pm.

The House resumed at 5.05pm.

PRIVATE MEMBERS' MOTIONS

HON P CUMMING:

Mr Speaker, I beg to move the following motion:

"The House believes that, in refusing to answer the questions asked by the Hon Peter Cumming, the Government have incurred a further democratic deficit".

I would like to re-trace briefly the steps by which we came to this situation in which the Government refuse to answer my questions. I stood for election on the platform of advocating participation in the Brussels process. It had always seemed clear to me that the objective of the Brussels process was to arrive at a negotiated settlement. To me it was pure logic and common sense that a negotiated settlement required mutual

concessions. What I did not have in my mind was the picture of the format that an acceptable settlement, acceptable to me that is, could have. About a year after the last election, Andorra was declared independent and gained a seat at the United Nations and this clicked in my mind as the kind of format of a settlement that could be acceptable. To me the Andorra solution represented an evolution of thought and not a change of position. It may be that when I came to the GSD I misunderstood the GSD's position or it may be that they misunderstood my position. The fact is that 18 months after the last election, the GSD remained silent on the question of participation in the Brussels process and it seemed to me that the ideological battle was being lost by neglect, that we were not being sufficiently salesmen for the good side of participation in the Brussels process. We must remember that at the time of the last elections, an opinion poll showed 5 per cent of the public in favour of attending the Brussels process. So, to start with I was undergoing a feeling of frustration that we were not selling the Brussels process as I felt we should. We were losing the ideological battle. Two things then happened almost simultaneously. One was the independence of Andorra and the other was a meeting that the GSD held with the Self-Determination Group, after which, sitting with drinks and the man beside me turned to me suddenly and said "Look me in the eyes and tell me would you ever be willing to grant concessions to Spain?" and I was taken aback and I said "Look, you would have to say what concessions you were talking about because if for a minor concession we could have a settlement I would certainly go for a minor concession". This he took very, very badly and from the following day there was appearance in the press of reports that I was keen on concessions and a continuous campaign was started against me on the concessions issue. I felt that I had nothing to be ashamed of in what I believed and what I had said and I wanted to defend this position in public. At the same time, the independence of Andorra was declared and when I did go public in defending my position I also said that I found a solution based on Andorra to be acceptable. This obviously set up difficulties between me and the GSD and it was when we decided to part company. To me, Brussels was always an exploratory process which if exploration was successful would lead to negotiation and successful negotiations to mutual concessions and to a potentially favourable solution. That was the position in April 1994. The following September I brought to this House a motion. To my mind a very innocent one which said "This House deplores the deteriorating state of relations with Spain". Deteriorating because of course at that time we were having increased problems at the frontier, double checks and all this, so deploring the deteriorating state of relations with Spain and urging the Government to

establish a process of dialogue in order to improve these relations. A very vague and wide open motion in order to make it possibly attractive. Mr Speaker, I would like to read just one paragraph at the end of my speech to that motion and it says the following: "My position with regard to the Spanish flag is that it will never fly over Gibraltar with my consent in my life time and I say that to any Spaniard that is willing to listen. My position as regards concessions is that the thermometer which regulates concessions that can be made and concessions that cannot be made is that at the end of the day we have to be recognised as a people in our own right. The sovereign rights over our land which we have accrued over 300 years. Any concessions which leave that intact it is possible to make. Any concessions that destroys that is out of the question". That sums up Mr Speaker my position in that debate.

The Government turned that round into a censure motion by taking every word after "This House" and turning it round to a completely different motion. In section one the Government deplored the policy of the Spanish Government to continue with the harassment of the people of Gibraltar introduced in the 1960s by the previous Spanish regime. I would have wholeheartedly supported that paragraph because of course the harassment of the people of Gibraltar is something that we all deplore. Section 2 said "This House condemns the views expressed by the Hon Peter Cumming since April this year concerning relations with Spain" the views of course about possible Andorra format for a negotiated solution. Section 3 said "Declares that such views did not form part of the policies on which the Hon Peter Cumming sought a mandate from the electorate in January 1992 to obtain membership of this House." To me, Mr Speaker, the only policy which changed was the policy which developed. How could I say the Andorra situation, when I stood for election Andorra was a condominium? I have never supported a condominium because a condominium implies domination by two parts and we do not want domination by Britain, let alone by Spain as well. I want a situation of independence such as Andorra enjoys today. The fourth section of this censure motion of September 1994 said "Therefore this House censures the said Hon Peter Cumming, calls on him to resign his seat forthwith and test the support he claims exists for his views by seeking a fresh mandate from the people". This is what happened then in September 1994. We move on to January 1995 where I come to this House with my usual lot of questions at question time and find that they are all left towards the end of question time to be all answered together. The answer then that the Chief Minister makes to all of my 12, or how many questions they were, is to say that because I have lost all my legitimacy in this House therefore he does not

answer my questions. In spite Mr Speaker of your previous ruling and at the time of the censure motion that my position in this House was legitimate and a repetition of that ruling to me privately and again publicly on the occasion that this answer was given in this House. That is to say that the Chief Minister said I have lost all legitimacy and the Speaker rules that my position is entirely legitimate. In the face of that the Chief Minister continues with a lot of hugging and puffing and I say to him that it is very convenient for him to take this position because the questions that I bring to the House today have sought to shed light on the present crisis in which we are engulfed. The crisis was the impending direct rule from Britain and therefore as the Chief Minister does not wish to shed light on the crisis or the way that he is going to approach it, it is much more convenient to deal with my questions in this way. The Chief Minister said it had nothing to do with convenience, it is because he refuses to accept the wishes of the majority of this House at which moment the Leader of the Opposition intervened to disassociate himself with that sentiment because of course on the same grounds the Government by a majority motion could say the whole Opposition have to resign and if it was binding then they would have to resign. So obviously that is a nonsense and is certainly nothing to do with the democratic procedures to which this House is subject. The Leader of the Opposition goes on to say that it was certainly not the intention of the Opposition to deprive my continued presence in this House of legitimacy. It was not their intention and it was not the effect of the motion said the Leader of the Opposition. The Leader of the Opposition goes on to say that the statements made by the Chief Minister are bordering on contempt of the House because it is not for the majority of the members of the House to decide for a minority. It is obvious and that little debate is summed up by the Speaker at the end who says that it is clear that my legitimacy is definitely constitutionally correct and that I have a right to ask questions but he cannot force the Government to answer. Of course I have always respected that position on the part of the Speaker as entirely correct.

Mr Speaker I would like to look briefly at some of the questions, the kind of questions that since this occurred I have continued to bring to this House in spite of the knowledge that they would not receive an answer. Three of my favourites read like this: The Hon Mr Feetham had recently presided over the opening of Peralta's new supermarket and the Minister said in this speech that was widely reported that if we continued to have faith in ourselves things were going to get better and my question at that time was "Could the Minister specify the exact course of events by which he foresees

that things will get better?" because to me Mr Speaker the democratic function of an Opposition Member in questioning Ministers is to make them justify exactly that type of woolly misleading statement. Like to say "Hang on there" because we are hanging things are going to get better without any logic to the statement at all. I also asked at that sitting for the Government to make a statement on the Baltica case. This was a convenient question to be able not to answer because at a previous session the Opposition had asked for a statement and the Chief Minister had said "I want to give a statement but as the case is sub judice in Denmark, therefore it would be wrong to go into the question of Baltica" and then a few weeks ago we had here the case where the Chief Minister wanted to discuss a case that was sub judice, not in Denmark but here in Gibraltar and that was alright. The fact was that by putting it off and putting it off we never actually got a statement on the Baltica case. Another favourite question of mine Mr Speaker at that time was "Will the Government now begin to link economic expectations to the state of relations with Britain and Spain?" and obviously these three questions are questions that come with a political charge to them, they push a philosophy that I would like to foster and I suppose that I can see it from their point of view in being happy to get out of answering a question so politically charged as that if they decently can. I have a certain..... not sympathy but I can understand that they prefer not to answer such a question if they can get away with it but then there are a series of other questions for which I would like to highlight two or three Mr Speaker where this question of political charge does not apply at all. For example, a neighbour calls me up at my home and says "I am going crazy, my wife is going crazy with all the soot landing here at my window from the Desalination Plant. Could you ask in the House when they are going to stop this soot and the air pollution coming from....." and in the House when I asked when will the problem with air pollution on Gib V come to an end and in the interests of democracy the Government refuses to answer. That, I cannot understand Mr Speaker. That is a question obviously from a constituent and it is not possible to conceive that to deny an answer to that question is a service of democracy in any way. Around that time I had been sent a 'Pay as You Earn' re-adjustment of over £1,000 and it seemed to me that if it happened to me it could happen to somebody and if it happens frequently there is no point in having a 'Pay as You Earn' scheme at all and let everyone save up for their own payments. So I wanted to ask how often this kind of thing happened, that large sums are involved in a readjustment and why no explanation is forthcoming without having to demand one. This is obviously a constituent-type question which does not come with any

political charge or with any party political type flavour. This is a question that the man in the street can easily be involved in and wants to know the answer to. I asked Mr Speaker "Does the Government approve of the restrictions applied on the use of the entrances to the Alameda Gardens?" and in the interests of democracy I had no answer. The Alameda Gardens was an important part of many of our childhoods. Certainly it was of mine. Later on it was a very important part of my young adult life when I took my children there and now I like to take my grandson there. And now I have to park my car in the Grand Parade and instead of setting the children loose where they can go straight up into the Gardens safely, no, I have to take them by the hand, weed my way into the busy traffic, narrow pavements that go all the way round and enter the Alameda then and then when the children are tired instead of bringing them straight down to the car once again we have to negotiate the dangerous roads back in and if I take the car to the top way I am going to be clamped by parking at Rock Hotel. These are constituent type questions, no political charge, they cannot be denying an answer to them, it cannot be justified on the grounds of democracy. The Students' Association sent me, and I am sure to all other hon Members a portfolio of their problems and their interests, asking to know what different Members' opinions were and one of the things they wanted to know was the criteria for awarding of grants for studies in the UK, further to an initial degree such as a Masters or professional studies and this seemed to me a very fair question. There was a gap in the public knowledge of what criteria was used. Why one could get a Masters and another one could not, if there were criteria and if there were not, obviously there should be. Once again, no answer. There was a write-up in the newspaper from a medical professor who in the newspaper made a very pointed, direct criticism of our medical services pointing out one specific branch, and one specific item that at the time must have surprised many people who read it and it did to me as well, pointing out what he claimed was a deficiency. I asked about this in the House because I honestly did not know and in any case if there was a good answer it should have been public but that did not even reach the Minister. She never even read the question and therefore an opportunity was missed because I later found out that in fact that this was mistaken and misleading in that with a couple of sentences the Minister could have rectified a wrong impression, a slur in fact on our medical services that could have been put right and all this Mr Speaker the Government claim was in the interests of democracy. I asked at that time for a comment from the Government on the articles by Tristan Garel-Jones recent ex Minister of the Foreign office in a Spanish newspaper in which he said many amazing things about the Gibraltar question; a

matter which I felt was definitely worthy of comment and some comment in this House but once again in the interest of democracy the Government would not deign to answer or to comment on that issue. I asked the Government would they make a law so that Gibraltarian status can be inherited through a Gibraltarian mother and this is a matter that interests all Gibraltarian women, that they should be able, in their own right, to pass on Gibraltarian status to their children which is not the case at the moment. Once again there is no answer. Today, Mr Speaker, I would have liked to have made also topical questions which I did not because it is a waste of time as they would not be answered, once again in the interests of democracy. I would have liked to have asked today the Government whether there was anything they could do to prevent the Services Police redundancies. I would have liked to ask them whether there was anything that they could do to prevent discrimination by banks against working class people with small accounts; discrimination that does not occur by those same banks in the UK and therefore those same banks do not practice that discrimination against small account holders in the UK I see no reason why they should be allowed to get away with it here and I would have liked to have to question the Government on what they could do about that. It seems to me that many small account holders in Gibraltar would have been very interested in an answer but once again in the service of democracy no answer would have been forthcoming. Mr Speaker, you will have noticed that this motion makes references that the Government have incurred a further democratic deficit by not answering my questions and implying obviously that there are other democratic deficits and we are well aware of that; the lack of financial accountability is a well rehearsed argument that I am not going into any further now. The infrequency of meetings of this House so that we cannot ask topical questions and have topical discussions is also fairly well rehearsed. I would just like to mention another element referring to the functioning of the House of Assembly which seems to me also very anti-democratic and which is rarely mentioned and it is the marathon sessions that the Government favour where a day is totally packed from 10.30am till midnight, packed in with masses of very important information and opinions and the press is here and obviously on many days when they do not have enough news or information suddenly on one day they are flooded with an amount that they cannot possibly cram into one day and if it is broken up into two or three days obviously the press is biased against news that is two or three days old and a lot of it is lost and it is lost, not to me who have been here but it is lost to the man in the street who is interested and would like to know and be made aware of the issues that are discussed here if they can be given to him in portions that he can

digest. It seems to me that the marathon sessions may have been convenient to the Chief Minister's diary but it is not a system that favours democracy in this House. Mr Speaker I commend the motion to the House.

Question proposed.

HON P R CARUANA:

Mr Speaker whilst I disagree with much of what the Hon Mr Cumming said at the beginning of his long address I have to say that I agree with much of what he said from about a third of the way through to the end. When the Chief Minister announced, following the Hon Mr Cumming's departure from this party that as a consequence of having left the whip of the party with which he had been elected to this House, he announced that that was a reason in his judgement why the Hon Mr Cumming should be treated as a non person in this House, struck me as being wrong whatever one might think of the merits or lack of merits of the Hon Mr Cumming's views as he was then expressing on issues important or unimportant to Gibraltar. Certainly, I pointed out at the time that this was not a precedent in Gibraltar where there were precedents of people being elected to this House under the banner of one political party and then changing horses in mid stream, in some cases not even in mid stream, almost at the very beginning of the stream and no one thinking about that. Indeed, hon Members will be aware that even in England there have been two recent examples where in one case, I am not sure I am going to remember either of the names but there was one Conservative MP who thinks he has seen the writing on the wall and has crossed over to join the Labour Party. I have no doubt that at the 1992 general election in England that gentleman, Mr Howarth, I am sure that he conducted the 1992 election campaign on behalf of the Conservative Party on the basis that the Labour Party were only one step removed from the devil incarnate. Well, when he left the Conservative Party a few months ago to join that very same Labour Party no one stood up, indeed people did stand up in the House and invited him to put his constituency seat back at the disposal of the electorate but when he declined to do so which was a matter of political taunt and choice no one then said "Well, you have lost your legitimacy in this House". He was left to face his electorate in due course when the UK next convene a general election as indeed is the fate that befalls the Hon Mr Cumming in Gibraltar and therefore it did not then struck me as correct and does not strike me as correct now that the Government should because the Hon Mr Cumming has parted company, albeit, on matters of an important policy issue with the party that brought him into this House and that that was a reason why the majority in the House should decide that he had

lost his legitimacy here. That was my view then, it remains my view now. I think that the treatment that the Government Members have given to the Hon Mr Cumming in this House in refusing to answer his questions... They do not answer many of mine. It is in their style and nature to be as unhelpful as possible in answers to questions at the best of times but certainly to refuse even to attempt an answer on the grounds that they do not think that he should be in this House at all certainly in our judgement has incurred in a further democratic deficit and for that reason we will be voting in favour of this motion.

HON CHIEF MINISTER:

Mr Speaker the reason why in September 1994 I moved an amendment to the motion brought by the Hon Mr Cumming was not to criticise him for having left the GSD which in fact I do not consider to be a matter for criticism but for praise since I do not think anybody should belong to the GSD. The reason why I brought a motion calling for his resignation which was supported by the Hon Mr Caruana and other members of the Opposition was because the nature of his utterances, when he stopped being in the GSD, were totally incompatible with the stand on which people have been elected to the House of Assembly. When the Hon Mr Caruana amended my motion in September 1994 he amended it so that instead of us criticising the views of the Hon Mr Cumming we criticised the posture of the Hon Mr Cumming and we accepted his amendment. So we in the GSLP disagree with his posture and disagree with his views. The Opposition Members do not disagree with his views, they disagree with his posture. That is, presumably they do not mind the views if he is sitting down and they mind the views if he is standing up.

HON P R CARUANA:

We disagree as to whether he has got the right to put questions.

MR SPEAKER:

Order, order, if the Chief Minister will give way.

HON CHIEF MINISTER:

Mr Speaker when the motion was brought in September 1994 to this House by me to amend the motion brought by the Hon Mr Cumming the Leader of the Opposition moved an amendment to my amendment in order to replace the words "views" by the word "posture" and we accepted his amendment because it was more important to us to get the unanimous rejection of the Hon Mr Cumming than rather

than to give a way out to the GSD by saying "Well, no, it is not the posture that matters, it is the views that matter" and therefore since they came back and said they would vote by condemning the posture adopted by the Hon P Cumming recently and in the House at the time and then because the posture did not conform with the policy and it is difficult to understand how postures and policies conform or do not conform but nevertheless that is how far they were prepared to go, they then went on to censure the posture and call on him to resign. Well, of course, what the Leader of the Opposition knows full well is that there has never been since the 1969 Constitution commenced and the first House of Assembly was elected or to my knowledge when the 1964 Constitution was in existence and there was a Legislative Council or to my knowledge when the 1954 Constitution was in existence ever in the entire history of elected representation in Gibraltar a situation where a unanimous decision calling on a Member to resign has been carried and then ignored by the Member and that decision to ignore a resolution of the House and carry on here is not a democratic deficit in the eyes of the Leader of the Opposition because he thinks it is quite alright that having been told he is persona non grata he stays here and carries on asking as many questions as he can dream up whenever there is a meeting of the House. Well, I am afraid that the position of the GSLP is that we are consistent in the things that we say and since we said when we called for his resignation that as far as we were concerned he had no right to exercise in this House the position of a Member because he was already admitting even then that if he went back to the people he would not get elected. He was saying that publicly. He said that the reason why he was not prepared to resign there and then was because he did not have a very good chance of getting elected and he needed more time to convince Gibraltar. If we are to believe the GBC/Chronicle poll which I know the Leader of the Opposition does not believe, he believes the Panorama one, I know that, but if for the sake of hypothesis we were to believe it they claim that only two people said they would vote for Mr Cumming. I do not know if they happened to ask him and his wife in Main Street who they would vote for. Therefore, we think that if anybody in this House has been guilty of a democratic deficit it is in fact the Hon Mr Cumming himself by choosing to ignore a resolution carried by everybody else in the House with his vote against and it is no good saying in Parliament somebody left the Conservative party and crossed the floor, this is not the case of somebody crossing the floor. Can one imagine, Mr Speaker, the House of Commons voting 629 to one to say to a Member "You are not fit to continue here" and that Member saying "I will not go"?

HON P R CARUANA:

Would the Chief Minister give way, because we have now come to the crux of the issue Mr Speaker? The House did not say to the hon Member "You are not fit to be here". The House expressed a view that the House would like the Hon Mr Cumming to have resigned and to have put his views to a test in a bye election. That is what the Opposition supported but the decision is his and if notwithstanding the views of the majority of the House and it does not matter the majority is 50 to one or 150 to one, he chooses to ignore the opinion of the majority of the House, albeit that he is a minority of one, it does not entitle the rest of us to then go one stage further and say "Well, if you do not do as we ask, we the majority club together, in effect we decide who should belong to this House and who should not". What we were saying was, "We think you should resign and we think you should test your views in a bye election". That does not mean that the consequences of rejecting our views is that we set ourselves up as some sort of constitutional court to decide who is entitled to stay in this chamber and who is not and that is the difference. We think that we were expressing a view. The Chief Minister thinks that we were expressing a view coupled with consequences as to how that view had to be implemented and that is where we disagree Mr Speaker.

HON CHIEF MINISTER:

I will not be giving way Mr Speaker again because in fact the hon Member had a chance to put his views and he put his views and his view was that he agrees with the Hon Mr Cumming that because we have not answered his questions which is the only thing we have done to him, not answer his questions, we have not actually sent him to Moorish Castle where many Gibraltarians think we ought to have done, what we have done is not answer his questions and that is not.... [Interruption] Sending someone to prison would be a democratic deficit but not answering his questions is no greater a democratic deficit than ignoring the view of the majority. The Opposition Member may think that it is perfectly democratic to have a decision taken, 99 to one and the one says two thumbs up and that is democracy. It may be the kind of democracy that he believes in but it is not the democracy that the rest of the world abides by when people.... [Interruption]

Mr Speaker the hon Member is not entitled to have a say at this stage because he has spoken expressing whether he supports the views of the Hon Mr Cumming or not and it is not his motion that I am answering. One would think that

the Hon Mr Cumming was still in his party, the way he behaves. Mr Speaker, the House censured the posture because he wanted to call it posture instead of view. If he brings a censure motion to the House against the Government does he not expect that the Government would resign? Why does not the Government resign? Because it has a majority and it defeats the censure motion. Is it not normal in any parliament that if a censure motion is passed against the Government the Government goes? Well if the censure motion is passed by 99 to one should not the one go? And if the one says "I will not go" then the Opposition Member believes that if the Government were to be defeated in a censure motion in this House which clearly, clearly, [Interruption] I am not giving way. If a censure motion were to be carried in this House against an elected Government where in fact the ex officio Members are not allowed to vote to support the Government in a censure motion precisely because it is the reflection of the wishes of the electorate, the Opposition Member believes that the censure motion passed against the Government because the Government do not have a majority means that the Government can still carry on governing. He thinks if the Panorama poll gives him a majority we should all go but if a censure motion is passed, we stay on. Strange ideas of democracy which no doubt when I finally tell him the election date he will have an opportunity of explaining. We have a very clear understanding that when we moved the motion here in September 1994 it was to demonstrate that the democratic thing to do was that if the Hon Mr Cumming believes that the views that he was explaining or the posture that he was adopting as the others would have it, were ones which were supported by a section of the electorate, that all he had to do was to go to the people, defend that policy because the people that stood with him said they did not agree that that was the policy that they had shared with him. He has tried to explain today that he does not know whether in fact when he joined the GSD it was that he did not understand where they stood or that they did not understand where he stood or that he has evolved and they stayed still. Or it may well be that he is trying to protect them against the damage that he can inflict on them if they are too closely identified with him, that may be a fourth possibility. The truth of the matter is that we made clear in that motion that if the hon Member did not go to the people to test the support for his ideas we would in fact cease to acknowledge him as a Member of the House and accept that we should respond to any questions or motions from him and we stuck with that and we said it in September 1994 and therefore I am making an exception today, given that this is the last time Gibraltar will ever have to put up with the Hon Mr Cumming in the House of Assembly because he is obviously not going to get re-elected by addressing his motions. I

therefore propose to move an amendment to the motion by deleting all the words after "This House" and substituting by the following words:

"...(1) Notes that the Hon P Cumming was asked to resign his seat in this House by a motion carried on the 29th of September 1994;

(2) Notes that he has continued to express views on Gibraltar's future as an elected representative of the people without a mandate so to do from the electorate;

(3) Considers that in so doing he has abused the democratic process and given comfort to Spain in its aspirations to take Gibraltar over;

(4) Condemns the said Hon P Cumming for doing a great disservice to the people of Gibraltar and creating an impression outside Gibraltar that the mood of the people was shifting in favour of making concessions to Spain."

Mr Speaker, the proposed motion that is contained in my amendment records what is a factual statement to which I have already referred. The hon Member was asked to resign by everybody else in the House and he had an opportunity so to do then and test in a bye election his right as a citizen of Gibraltar to put whatever views he wants like other people have put them, some have put them even more radically than he has and abide by the result. He chose not to do it and he chose not to do it not just in order to stay here and ask questions but in order to continuously appear in the media in Gibraltar and in the media in Spain professing to be putting forward views which were only being given a platform because he was a Member of the House. If he was an ordinary citizen he is entitled to have whatever ideas he wants but nobody would print them. He could write letters everyday to the Chronicle like many other people do but they would not be given the same prominence and coverage as he has been getting and that prominence and coverage that he has been getting has been something that has been music to Spanish ears. They have been waiting for somebody to say things like he has been saying for a very long time. He has occupied the role of the ripe fruit - although it does not look too ripe to me from here - that Franco was long predicting our difficulties would produce and why is that? Because he has often explained the views that he holds as views born out of necessity, not out of desire, which makes it even worse. He has not been saying publicly "I think the best thing for Gibraltar is to make concessions to Spain". He has not been saying "I believe it would be a very good thing for Gibraltar to do a deal with Spain and have dialogue with Spain and settle our differences with Spain", he has not been saying that. He

has been saying "I believe we cannot live by self-determination. We cannot feed our children by self-determination and because we have to think with our belly and not with our hearts and our emotions and our sentiments, we have to accept that there is a need to come to terms with the Spanish threat". That is the language of defeat and abdication. He may not be the only one that thinks it but he is the only one that says it. He may be more honest than others that think it and do not say it but I am afraid that he is more dangerous than the ones that think it and do not say it because the fact that he is saying it is interpreted by people who monitor every single thing that is said in Gibraltar as the first crack in the armour, the first chink in the edifice which we have always tried to maintain in Gibraltar that whatever internal differences we might have when we came to the question of Spain the Spaniards would be hitting a brick wall and we cannot escape the responsibility of what he is doing in undermining Gibraltar's position by saying "Well look I have said that we will never give them sovereignty, we will give them anything except sovereignty". They do not want anything other than sovereignty and everybody knows that, so how can he say "Anything that they want other than sovereignty they can have" and the Spaniards will say "That is the only thing I want" and they have been saying it to us for the last 30 years. This is not new and we have always known it and he knew it in 1992 when he stood for election and therefore the only excuse that I can make for the views that the hon Member expresses is that he really believes that Gibraltar was going to go totally bankrupt, if not in 1994, in 1995 and if not in 1995 in 1996 and he really believed that in the face of that he has said on more than one occasion that we would not be able to deliver a sustainable economy in Gibraltar because on the one hand Spain would have to block it and on the other hand the United Kingdom's Foreign Office would not act to defend our position and therefore apathy on the one side and hostility on the other would guarantee our failure. In the face of that failure we had to be realistic and come to terms with the enemy on our doorstep and rather than have them swallow us in a number of bites negotiate the bite. It is a legitimate view to hold intellectually and it is a legitimate position to defend politically if one asks people in Gibraltar "If you share my view vote for me" and people vote for one. I would hope that there would be very few people in Gibraltar that hold that view, but what I cannot accept is that having been told that he was doing an extremely dangerous thing he carries on doing it regardless and then he comes along to the House and says the democratic effect is "You do not answer my question about the soot in the distiller." He is playing about with the destiny of every man, woman and child in this

place and he has got the audacity to come here and criticise me because of the soot from the distiller? So I have no doubt that most people in Gibraltar who may be listening to this are more likely to agree with my interpretation of the damage perhaps unintentionally but nevertheless there, that the Hon Mr Cumming has done by continuing to propagate views which give the impression that if we were not on our last knees we were just round the corner from it and indeed I think some of the language of his third motion today indicates that he still believes that those are the options, and that in doing so he has done nobody any favours, not himself, not his family, not his children, not his grandchildren because in fact the only way that he has got a right to put such views as an elected representative of the people of Gibraltar is if he gets people to be convinced by his arguments and I would hope that rather than that happening he would be convinced himself that he had been barking up the wrong tree and stop doing it.

I commend the amendment to the House.

MR SPEAKER:

Before I propose the amendment I would like to point out that this amendment I consider it to be a motion of censure against the Hon Mr Cumming and therefore only the elected members will be able to vote in this motion. I do not know whether I need to read the whole motion, if the Opposition have got it with them already I suppose there is no need for me to read. I now propose the question in the terms of the amendment of the Chief Minister.

Any Member can speak. I want to add that this is not an amendment which modifies the original motion. It is in fact a different proposition and therefore the rules that we are going to follow are that Members will be able to talk on both at the same time. The Chief Minister who has just spoken will be able to speak at the end of the amendment. We will take the amendment first and then we will take the original motion. In the process of speaking Members then, who have spoken already may speak again. Members who speak once now will not be able to speak again. At the end then we will have the Chief Minister winding up his amendment, the Hon Mr Peter Cumming winding up his motion and then we will take the vote on the amendment first and if the vote of the amendment first is passed then of course the motion is defeated.

HON P R CARUANA:

Mr Speaker the fact that the Hon Mr Cumming is no longer in this party and the fact that he is extremely politically unpopular; the fact that I strongly disagree with the great majority of the political views that he expresses on the matter of relations with Spain will not discourage me as Leader of the Opposition in this House from making a stand in defence of basic democratic principles. If the Chief Minister thinks that he can try and rouse us all with nationalistic, patriotic sentiments of the sort that he has just used to recruit my support for the political hatchet job that he is trying to perpetrate by his amendment to this motion, the answer is that I would sooner lose my deposit at the next general elections than help him in the destruction of the democratic process on which he appears to be hell bent. [Interruption from the public gallery] Mr Speaker there appears to be a cat in the public gallery. I would not expect of course Mr Speaker a cat to share my enthusiasm for principles.

Now, Mr Speaker, the motion which we were addressing was one about whether the Government were entitled to refuse to answer the Hon Mr Cumming's question and I had already said that we would support his motion to the effect that the Government were not entitled, whatever he had done, whatever the House had voted, to refuse to answer his question. We are no longer discussing that motion. The Chief Minister asked why a Government should resign when it faced a censure motion but not a solitary Member of the House when the rest of the House condemns him. The Chief Minister, Mr Speaker, is either ignorant or determined to manipulate public opinion in the hope that public opinion is ignorant and I suspect that public opinion is not ignorant of this issue. The answer to the Chief Minister's question is so simple that I cannot really believe it of him that he does not know the answer, and that is that the laws of Gibraltar entitle to be in Government only and certainly to hold the office of Chief Minister only that person that commands the support of a majority of the House. So that if one ceases to command the support of the majority in the House, under the terms of the Gibraltar Constitution and under the terms of the House of Assembly Ordinance, the Governor is not entitled to allow one to continue to be Chief Minister. That is why a Government has to resign if it loses a censure motion because a censure motion is the expression by the majority of the House to the effect that the Chief Minister no longer enjoys the confidence of a majority of it. That is why he must resign. There is no provision as far as I with certainty tell this House, either in the laws of Gibraltar nor indeed in the

laws of any democratic, civilised nation that allows the majority to boot out the minority simply because they disagree with the minority's view. Nor, contrary to what the Chief Minister appears to think, do I know of any Gibraltarian that would want to throw the Hon Mr Cumming in prison because he holds a minority view. Indeed, I know of no country in the world now where that might be true. I think they probably might do that in Iraq but certainly not even in the ex-Communist countries have I heard it responsibly said in parliament that there must be many citizens who would like to see the Hon Mr Cumming in prison. That is a further democratic deficit in which the Chief Minister has engaged this evening in this Chamber. It does not matter whether the majority is 14 or whether the majority is nine or eight, the majority in a parliament cannot decide who is entitled to stay in it and if the Chief Minister cannot see that then frankly it strengthens my resolve. It confirms my decision to have supported the Hon Mr Cumming's original motion that the Government Members are incurring in democratic deficit.

And I agree with the Chief Minister's assertion that this evening will be the last time that Gibraltar will have to put up with the Hon Mr Cumming in this House but the difference between him and me is that he wants to bring that about as a result of his action and I insist in leaving it to the electorate. It is true that this is the last time that the Hon Mr Cumming will appear in this House but it will be because the electorate says so and not because the majority in this House says so, and that is the difference between the Chief Minister and me. There is nothing about whether I secretly support the Hon Mr Cumming; nothing about whether we have got a hidden agenda; nothing about whether we want to make concessions with Spain, but because the defence of the basic democratic principle is not something that I am willing to allow the Chief Minister to bastardize on the back of populist statements in this House. Mr Speaker, I am not willing under any circumstances to support a motion brought to this House by the Chief Minister which accuses any Member of this House of having abused the democratic process. Indeed, I believe that the Chief Minister has abused the democratic process in refusing to answer the Hon Mr Cumming's questions over the last several months. The fact that I think the Hon Mr Cumming should have resigned, as I do, does not mean that if he does not he has abused the democratic process. The democratic process of this House is established by the rules of this House; in the Ordinance that governs it and in the Standing Orders and he has committed no abuse of that kind regardless of what we think, of what he says on his feet in this House. Certainly, the Chief Minister's motion is simply not supportable to the extent that he seeks to get this House's resolution that the Hon Mr

Cumming has abused the democratic process. He has no more abused the democratic process than previous hon Members of this House have done when they have left the party with which they were elected and moved to another one. He has not abused the democratic process because he has said things in this House with which every other hon Member of it might disagree. It is a strange definition of democratic process that the Chief Minister would seek to defend in this House and he may wish to defend it but he can defend it by himself and not with our support. The fourth paragraph reads: "Condemns the said Hon P Cumming for doing a great disservice to the people of Gibraltar and creating an impression outside Gibraltar that the mood of the people was shifting in favour of making concessions to Spain". I do believe that the hon Member's statements have done a degree of disservice to the people of Gibraltar but, frankly, the Chief Minister has got to be coherent and consistent. This is after all the man of whom the Chief Minister says repeatedly in this House, or rather of his utterances, that they are the rantings of a person of unsound mind. Well, does the Chief Minister really believe that the Spanish Government could be so stupid as to think that the resolve of the people of Gibraltar to stand firm against their claim to sovereignty or that the determination of the people of Gibraltar to make no concessions to Spain are put into question by the rantings of one man of unsound mind? He has got to be a little more coherent than that. The Chief Minister however great the disservice he thinks the Hon Mr Cumming could have done to Gibraltar's unity on the question of concessions cannot in all seriousness believe that anyone in Spain thinks that the fact that the Hon Mr Cumming stands in this Chamber, usually to the derision of all the rest of the hon Members of it, to express views which everyone knows and certainly if there was any doubt the latest opinion poll confirms it, are supported by almost no one in this electorate and who in any case are going to speak loudly and clearly soon, not soon enough if the Chief Minister insists on delaying the election. Now there is a good reason is it not there? There is a good reason for calling the elections as soon as possible. Let us give the people of Gibraltar the earliest possible chance to make sure that no one in Spain thinks that the Hon Mr Cumming reflects any form of view. Let us have an election in 30 days time so that he can lose his deposit. The interests of Gibraltar do not require us to collectively incur in a further democratic deficit. The fact that the Hon Mr Cumming's views do not reflect the views of the vast, vast, vast majority of the people of Gibraltar will be stated loudly and clearly at the forthcoming general election and it does not require a witchhunt by the Government Members against an hon Member of this House for Spain to know that. It will know that soon enough by proper and legitimate means.

MR SPEAKER:

If no other Member wishes to speak I will ask the mover of the amendment to the motion, the Chief Minister, the Hon Mr Bossano.

HON CHIEF MINISTER:

Mr Speaker the motion has been brought by the Hon Mr Cumming accusing the Government of incurring a democratic deficit and the Leader of the Opposition supports him bringing the motion and supports the motion. Therefore we are perfectly entitled in a democracy also to express our opinion of the Hon Mr Cumming and our opinion of the Leader of the Opposition. I think what is very clear to the people of Gibraltar who may not be able to follow the intricacies of the Byzantine mind of the Leader of the Opposition that the last time when the Hon Mr Cumming brought a motion to the House urging us to establish a process of dialogue and we amended that motion by putting in a motion which called for his resignation and censured him, we caught the Leader of the Opposition on the hop and he was obliged to have to identify himself with a position which he would have preferred to have avoided and that it is clear that this is a repetition of that situation except that this time having already shown his hand by standing up and speaking before me and saying he was supporting that not answering the question was a democratic deficit, he has had great difficulty in shifting the ground because the last time round he was able to do it without showing his hand. The motion condemns the Hon Mr Cumming for doing a great disservice to the people of Gibraltar and the last motion censured him for doing precisely the same thing. He has compounded what we censured him for in 1994 because he has not stopped doing it since. It was not enough to stop him. At the very least, if he did not want to resign his seat he had exercised an element of self-restraint, not even that, he has redoubled his efforts. I suppose only a lawyer would argue with that. I suppose only a lawyer would say "No, no, because a government needs to have the support of the majority, if they are defeated on a motion then that is why they have to resign and everybody knows that". Well, no, of course it is not the case because in fact we can have a situation where the Government can be defeated in the House in a censure motion and notwithstanding that still have the majority of the support because the censure motion is about a specific issue. It happens all the time in many governments in Europe which are then reconstituted. What I am saying is that never to my knowledge outside Gibraltar and certainly never within Gibraltar has an hon Member of the House chosen to disregard the views of

everybody else in the House which by definition includes virtually the entire electorate. Short of going to the electorate and asking them the next thing to do is a vote in this House. Therefore how can the hon Member say "If you go to an election and you get defeated, that is democracy" but if the people in the House say "Look, we do not believe you represent anybody and we do not believe you should continue to take advantage of your status as an elected representative to express views which are dangerous, harmful and unsupported" and that hon Member says "Well, I do not care and because I know they are unsupported I am not prepared to test it" and that is a perfectly democratic thing as far as the GSD is concerned. Well, I am prepared to test my understanding of democracy against the Leader of the Opposition any time and I know from the 24 years that I have spent in the business that certainly the way I understand it is the way most of my fellow citizens would understand it. There might be a select few in the same intellectual echelon as the Opposition Member who might understand the nature of the argument that he is using but it is not one that I understand or accept or share. I reject it totally and I think that the truth is that politically he has got a problem with supporting this and we are taking here political decisions. This is an expression where we are here because we are politicians. This is not about theology; this is about party politics and therefore the arguments that the hon Member has used to try and defend his support for the Hon Mr Cumming and his unwillingness to support this motion, I do not think he is going to convince anybody else outside this House and they certainly do not convince members of the Government and therefore we of course expect to carry the amendment with the votes of the elected Members of the Government.

MR SPEAKER:

I now call upon the Hon Mr Peter Cumming to wind up.

HON F VASQUEZ:

I would like to speak on the original motion Mr Speaker.

MR SPEAKER:

No, you cannot. I said so very clearly at the beginning of the procedure. I cannot be open there.

HON F VASQUEZ:

I have not spoken on either of the motions.

MR SPEAKER:

You should have done so before we wound up.

HON F VASQUEZ:

The motion is still.....

MR SPEAKER:

I explained what the procedure was going to be. It is the procedure that we have always followed. Now the proposer of the original motion will speak. Then we will take the vote for the amendment and of course if the amendment carries the majority vote then the motion automatically is defeated.

HON F VASQUEZ:

Mr Speaker, if the hon Member will give way? I am very grateful.

MR SPEAKER:

No, Order, order, sit down. I am going to explain to you what giving way means. Giving ways means when something is said about what you have already said that you want to clarify, but not otherwise.

HON P CUMMING:

Mr Speaker I appreciate the joke that the Chief Minister cracked about when the Chronicle made the poll that they must have met me and my wife down Main Street and that gave me two votes. I think it is quite hilarious. The Chronicle yesterday when they give me binoculars looking for my votes and everybody else are voting for. My campaign has never been primarily aimed at collecting votes although obviously the Opposition never ever collect votes then obviously it is doomed to failure in the long run. I see it more as a campaign of planting seeds to grow in the future. Nonetheless, that said, about the scarcity of the votes on the ground for me, it is an undoubtable fact that 18 months ago I had a six per cent in a poll all on my own which afterwards went down to four per cent, to three per cent, to two per cent and in the face of the elections it has disappeared from half a per cent to nought per cent which to me is explainable more by the immediacy of the elections and the block votes rather than a total lack of support for the idea. But any way even if there was not any support for the idea, I am sure that the Chief Minister does not think that I three years ago thought "Ooh, what a crafty idea

for me getting votes, I will say concessions", that was never obviously my direction. The Chief Minister says that the reason for refusing to answer my questions was the nature of my utterances but in fact that is not what he said when he declared his policy of not answering my questions. He said that it was on the nature of the censure motion itself because he believed that it was mandatory. This is obviously a misunderstanding of the nature of that motion but in my experience of the Chief Minister misunderstanding on his part is always with a purpose. He knew that the motion could not possibly in any realms of democratic processes have been mandatory. It was in fact a misunderstanding on the purpose and the purpose was to mislead. I believe that the Chief Minister has been a past master at the art of misleading people. It was in fact to stir up the people, to use the motive, terms to stir up the people that I was a traitor in our midst, that I was a fifth columnist, to lay on a riot if it was possible, to look for rent-a-crowd. In fact a little riot would have been great cool for him because it would have reinforced the taboo on comprehensive debate of our political situation because it would exclude all those taboo terms for another 30 or 40 years. Fortunately, I think the people of Gibraltar have moved on since we had those political riots of 30 years ago and people have responded with discernment to the main changes in the situation on both sides of the frontier since then. The Chief Minister has sought to compare the censure motion against me with a censure motion against the Government and of course that just will not wash for a moment because when there is a censure motion against the Government it may well be that the Government have to resign but they resign from Government not from the parliament. If another grouping can form a Government, the same parliament goes on. It was obvious that the Chief Minister was scouring the Constitution to see whether he could squeeze some element or find some elastic loophole whereby he could have forced a legal structure to force me to go from this House because he threatened me one day with section 30 of the Constitution which obviously was the one that if a Member becomes certified of unsound mind then he has to go from the House. Section 30 stuck in my mind because later on when the Chief Minister came to the House saying that he was going to lance the boil I returned the favour and reminded him that if he was in fact the boil that was going to be lanced and perhaps section 30 applied to him. Mr Speaker in part of his speech the Chief Minister has tried to make insinuations that the GSD in fact in taking a position on my side were in fact doing that because they were sort of contaminated by the same virus that I myself had and this is precisely the mentality that my whole philosophy attempts to destroy. In fact, I was interviewed on television a couple of weeks ago and one

of the questions that was put to me by the interviewer could have been transmuted into the following. This is not what was said but this was the meaning "Look, you are a publicly declared leper and the group from which you are provenance are probably secretly contaminated with leprosy so therefore you now must declare them to be as unclean as you are." That was the real meaning of a rather convoluted question that was presented to me on the television which obviously I repudiate as being a totally unsound question. I notice that the Chief Minister has gone to quite a lot of trouble to respond to my motion, departing from his own policy which he laid down more than a year ago. I think he gave the reason that it was because this was the last day and all that. It is also a very convenient departure from his policy from which he departs with great consummate ease when convenient because when I was still in the GSD I was trying to put across to my then colleagues to say "Look, already the shape of the election campaign is shaping up because the one card that he has left is the question of nationalism; of appeal to emotions" and this is where this motion has been of service to the Chief Minister in fostering those feelings which will go into the election campaign. The Chief Minister said that in summarising what he believes to be my philosophy part of which he did rather well I thought he also said that I believed that Gibraltar is going bankrupt and therefore unpleasant though it is we have to take a more realistic view to Spain. I do not believe actually we are going bankrupt in so dramatic terms, that we are entering a period of sharp recession, yes. But the Chief Minister said that I believe that and I ask the House why is it that I believe that? The reason that I believe it is that the Chief Minister believes it. Ah he shakes his head. No, but you see Mr Speaker, I take very careful note of his university lectures that he gave us when we were new boys in 1992 in the first budget session where he went to great lengths to school us in his mastery of the science of economics and the brilliant way that he had turned round the economy of Gibraltar and would continue to do so. My views on the question of the economy have been formed by the Chief Minister's views that he laid down in this House in 1992 and he said that unless Armageddon came by the end of this term of office the economy would have soared by 50 per cent and he said I believe it is in fact 6.5 per cent with zero growth having been achieved in this last year. The graph of the economy in the last six, seven years, shows crystal clear that we can only realistically expect recession from now on and these are based on the Chief Minister's arguments. He persuaded me that in order for Gibraltar to stay in the same place, at 14,000 jobs in the economy, we had to run very fast to stay in the same place. He is the one that logically must believe that we are now going bankrupt because these

are all his arguments which I as a good university student took careful note of. Bar Armageddon! And of course the Armageddon that came eventually was a self-inflicted one or rather inflicted by the Chief Minister. I believe that the Chief Minister has many talents, Mr Speaker, and the art of theatre he masters beautifully. He is a first class actor. How he goes from treating the whole matter as a joke to treating it as a vital, terribly important issue. How serious his voice goes when he says the damage that I am doing to Gibraltar. But you see Mr Speaker I can return the compliment. In sincerity I believe that the Chief Minister and the GSLP have done enormous harm to Gibraltar, that his mandate will end up by devastating Gibraltar. He is like leading Gibraltar out into the desert and there to abandon everybody to fend for themselves and to starve like Moses but in reverse without any miracles to back him up. To me, Mr Speaker, the period of GSLP Government which I hope is now drawing to an end has been to me a nightmare in the history of Gibraltar and the sooner that it is over the better.

Question put on the amendment to the motion. The House voted.

For the Ayes:

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 Miss M I Montegriffo
The Hon R Mor
The Hon J L Moss

For the Noes:

The Hon P R Caruana
The Hon Lt-Col E M Britto
The Hon F Vasquez
The Hon H Corby

The Hon P Cumming

The Hon M Ramagge was absent from the Chamber.

The motion, as amended, was carried. The original motion was defeated.

HON P CUMMING:

Mr Speaker, I wish to propose the following motion:
"This House wishes to review the Airport Agreement in order to propose specific changes that would render it acceptable".

I have here Mr Speaker the Air Traffic Survey of the Government Statistics Office published in May 1995 giving the arrivals by air from UK over the last years and taking the last seven years from 1989 onwards we find the figure diminishing until in the last account it is half of what it was seven years previously. Admittedly, seven years ago it had come up to a peak and from that peak it is now steadily declining for a period of six years so in the last six years the number of arrivals at the airport have been steadily decreasing until they have been halved in the period of seven years. Arrivals are down by 50 per cent in the last seven years. This is very bad news for our airport because it makes the airport much more expensive to run and we know that the airport has been civilianised.

It is still in the hands of the MOD and the RAF but the RAF do not run it, it is run by a civilian company and the civilian company are paid by the MOD to do it and we know that the contract with SERCO IAL has another three years to run and none of us can say for sure that the MOD will be willing to renew it or if they are for how long they will be willing to renew that contract. It seems unimaginable Mr Speaker that that could happen but to me three years before they closed the Dockyard it was unimaginable and three years before they took the resident battalion away it was unimaginable too. Mr Speaker, I have here the Chronicle of the 31st January last where the Tourism Advisory Board report is commented on with a big heading "Gib needs better access" it says. It says "Gibraltar's restricted accessibility has been identified as one of the major problems facing the local tourist industry according to a report recently published by the local Tourism Advisory Board. The report states that restricted air access, problematic and turbulent frontier relations with Spain and the lack of maritime links with our neighbours are matters which need to be addressed as a matter of priority". I ask myself how these questions are going to be addressed. The Hon Mr Pilcher was involved obviously in this matter and he is referred to in this press article but it seems to me that rather than identifying the cost benefit analysis to identify what investments are necessary, it seems to me that we must invest in processes of dialogue and of negotiations which are far more likely to give Gibraltar the better access that it needs to enhance its tourism and its general prosperity. I have here the Chronicle dated the 16th December last in which the headline reads "90 per cent of traders want Airport move" and it says "90 per cent of the Chamber of Commerce members want an initiative to maximise the use of the airport. This was revealed by

the Chamber President Joe Holliday in his speech for the annual dinner. The airport is probably Gibraltar's most important asset and so the current impasse should not be allowed to continue. Any initiative to increase the use of our airport would have immense economic benefit to Gibraltar and the Campo Area said Mr Holliday, describing economic and employment benefits." Mr Holliday said further down that "initiatives to break the deadlock should be within a commercial framework," that is to say not a political framework. It seems to me, and I have no fight with Mr Holliday at all, that the Chamber of Commerce are inclined to want to make an omelette without breaking any eggs because it seems to me that the veto that Spain has acquired over us joining the Liberalisation Directive for Europe, that is to say making us a fully European airport with freedom to fly to any other airport and any other airlines to fly to us. The veto that Spain has obtained from Britain is one that they are not going to give up lightly. I would say they are not going to give up heavily, they are not going to give up at all until we have presented ourselves to a process of dialogue and negotiation. I also was very struck as was the Leader of the Opposition by the Government's press release on the 11th January last which the Leader of the Opposition referred to in Question 29/96 in an article headed "Ground handling at Community Airports" where new directive has found its way into existence and been the subject to this press release by the Government without which none of us would ever have heard of it and I have been extremely struck, as was the Leader of the Opposition, by the amazing parallel that the series of events have with the series of events that took place when the Airport Agreement came into existence. The article says "The purpose of this directive is to remove barriers preventing operators from different Member States active in airport ground handling market to compete for this different Community airports". The Spanish Government proposed the text to exclude Gibraltar airport. The position of the British Government was that Gibraltar airport and therefore the directive automatically applied. The British Government put up a strong fight on behalf of Gibraltar. The directive carried important tangible benefits for the industry in Britain and it was decided on balance that agreement would have to be reached with other Member States to ensure early application of the directive which in any case would have had limited practical application into Gibraltar. But the Government go on in a very uncharacteristic, grovelling attitude to praise the British Government, this is the first time since I have been here that the British position has been spelt out clearly and unequivocally on the record in defence of Gibraltar's status in the EU and in defence of Gibraltar airport status as a sovereign British airport. I think that is actually not true because at intervals the British Government have repeated frequently that our airport, that it would remain so. So I do not believe that really that this was so epoch making as the Chief Minister wanted to make it sound. "For its part the

Gibraltar Government wishes to place on record its appreciation for the efforts made by the British Government to defend Gibraltar's position. It is recognised that this matter affected important British commercial interests and having put up a strong fight on Gibraltar's behalf the British Government was faced with the difficult position of having to conclude an agreement with its partners. The Gibraltar Government is satisfied that Gibraltar's case was strongly argued and defended given the important point of principle involved". Now, Mr Speaker, this whole affair only catches my attention in so far as it draw an exact parallel with the Airport Agreement. What has happened here? The British Government in Europe want to defend our interests. They do want to defend our interests but when their commercial interests are affected their commercial interests come first. When their alliance with Spain is affected that comes first. Now, when having made a fight for the principle the British Government cave in and give up. In this case the Government praise them for standing up for us but when the Airport Agreement was entered into it was a far more important case than this one. The commercial interests were enormously greater for the UK. In the UK at the time the UK was leading the air liberalisation package. They were presenting it to Europe and they were very commercially interested in its success. Spain was not interested in the air liberalisation package. If we take it on 10 years down the road we see British Airways having done exceptionally well and Iberia needing to be bailed out by recently obtained permission from Neil Kinnock for the Spanish Government to heavily subsidise the air industry, with without European permission is forbidden of course by European law, because it is unfair competition. So Spain was not interested in the air liberalisation and they were willing to sabotage it. Britain was enormously interested and they held out for nine months on our behalf on a matter of principle but there were leading articles in all the major newspapers crying out that in no way could Gibraltar stand in the way of air liberalisation for all of Europe. So the British Government set their mind to caving in and how could they cave in? Well, they were going to exclude us on the air liberalisation but in order to make up to us a little bit they left a loophole, a way in which we could if we so wanted find our way back into the air liberalisation stream which would set our airport free and turn it round with the possibility of commercial viability. Because the question of commercial viability for our airport is one in which local experts, is very, very problematical for our airport to succeed commercially when Malaga airport and other airports in Andalucia have been surging ahead when the road network is constantly being upgraded to launch our airport commercially now at huge competitive disadvantage and more so with every year that passes. So, Mr Speaker, anyway this press release from the Government to me, I fail to understand completely what their purpose was. Maybe they are trying to train the British Government in a new fashion by praising every

little tiny, positive thing and punishing every tiny bad thing as if that was going to have any impact. In this case when the British Government have caved in they have praised them and when they caved in on the Airport Agreement which is far more important they referred to it as the infamous Airport Agreement without any understanding of the vast commercial interests that Britain had at stake and which obviously they put their national interests before ours and this is something that we have come to terms with. Whenever the British national interest does not coincide with ours they will put theirs before ours.

Mr Speaker, in reviewing the records after obviously I had written my motion which had to be in over a week ago where I said that in order to propose the changes that would render it acceptable it seemed to me as I reviewed the records to be a forlorn hope that the Government could, with specific changes, find it acceptable because in all the records that I have been reading I see the Chief Minister totally intransigent on this issue. He categorically states that he prefers no airport to an airport in any way shared with Spain. He said it is a question of the sense of pride that we have in ourselves as a people, of the love that we have for our country. It seems to me that we love our country; we must not allow it to be impoverished. To me this GSLP attitude is not a sense of pride but a fanaticism because the real facts of the matter is that our position in this matter is not a strong one and we must not let the people believe that it is a strong one. We had the other night the benefit of the Hon Juan Carlos Perez scientific telecommunications technology broadcast in which he said all these marvellous telecommunication networks that were going to be set up with the base in Gibraltar, in great scientific detail only to tell us at the end that of course these are under attack from Spain. We have already lost the flag under the attack from Spain but he goes on to say that the ones that are presently in hand we will win because we are right. I am sometimes accused of being naive but that seems to me the most naive political argument I have ever heard. We will win because we are right and of course we are right on the airport issue as we are in everything that we have stated in the past about our political position but being right and being able to establish and enjoy our rights in this hard, cruel world is a totally different issue. Therefore, it seems to me that the sensible thing is to be a little bit flexible. The real choice that we face is an airport shared to some degree with Spain or within a very few years no airport at all. I feel that we must put our trust in what Britain has repeatedly guaranteed, that under the Airport Agreement the airport would remain a British airport and that the agreement in no way impinges on the sovereignty of the isthmus. The Airport Agreement in fact makes clear that whatever happens under the Airport Agreement the land on which the airport is built, the case for one side or the other is not changed in any way over the sovereignty of the land itself so it seems to me that

if we went ahead with the Airport Agreement and it turned sour what would we lose? We would lose the use of the airport. We would not lose the land, we would use the use of the airport but it seems that losing the airport is on the cards anyway as we lost the Dockyard, as we lost the resident battalion. There is no guarantee that the British Government will be willing indefinitely to renew the contract for the civilianisation and the running of the airport, particularly as the airport becomes increasingly expensive to run as passengers diminish and diminish. The question of sovereignty implications involved in the Airport Agreement seem to revolve exclusively around the question of whether Spain would have consultation or whether they would have a veto in the Civil Aviation Authorities of Britain and Spain that would run the airport. Britain says consultation and Spain says that they have a veto. Now, I would like to be able to ask Spain that if they believe they have a veto in what circumstances do they believe that they would be justified in using that veto? Because obviously if they were going to use it to exert pressure at the airport as they do at the frontier, that obviously is not going to get us very far at all but the curious thing is that about two years ago Sr. Solana was addressing the Foreign Affairs Committee of the Spanish parliament. It was the time that he said that the Spanish Government realised that it had been counter productive to have the frontier shut and the separation of Gibraltar from Spain, the alienation that it felt was counter productive and at that time he also said that it was a great shame that the Airport Agreement had not been implemented because if it had it would have acted as a confidence-building measure. He was saying this to his own people. It is not that he was trying to con us, he was saying it to his own parliament that in their book if the Airport Agreement had been got off the ground and it had been run to our satisfaction and to our benefit it would indeed have been a confidence-building measure, that they would have found fruitful. I believe that there is a very good likelihood that they would in fact have used it in that way - veto or no veto and that vetos would have been exclusively associated with professional matters so that flights come or go or are forbidden or encouraged according to the professionals in the field. In any case that obviously is a matter that we have to be clarified about the Airport Agreement the question of veto and consultation. I do take the Chief Minister's point made in other parts of the papers that I have reviewed where he says to Britain "Look, come to us with one agreement, not with two". Britain and Spain must be saying the same thing, before we can go down that road.

Mr Speaker, the Spanish Government and the Spanish media, when the Airport Agreement was made public proclaimed a great victory for themselves and this was the main factor that turned Gibraltar against it. The statement I have

taken from the biography of Sir Joshua Hassan that this is what Sir Joshua Hassan believed, that the main fact in turning the people against the Airport Agreement was the Spanish cry of victory when the Airport Agreement was proclaimed but, curiously, a couple of months ago when Sr. Brana was addressing the Rotary Club in Algeciras it was broadcast over the radio, I heard it over the radio, Sr. Brana made reference to that with an implication that we should have been able to see through the self-congratulations of the Spanish politicians that had achieved the Airport Agreement as a step forward in gaining their sovereignty over the isthmus because in fact the Airport Agreement does not give any sovereignty over the land. The sovereignty implications are exclusively related to the permission for flights. Now, Mr Speaker, the Airport Agreement many say was spawned by the Brussels Agreement. When people denounced the Brussels Agreement as they frequently do they say "Look what it brought us, it brought us the Airport Agreement, it brought us the Spanish pensions" but surely there is no logic whatever in that. If we had never had the Brussels Agreement, Spain would still have joined Europe and would still have used its position in Europe to try and do us harm and to me it is quite clear that part of the sovereignty of Gibraltar is exercised by the European Commission. The blue flag with the ring of stars which flies over the Rock contains an element of sovereignty in it which Spain already exercises over the Rock and it is through that element of sovereignty that it already enjoys that it uses to harass us and to get away with things like excluding us from the Air Liberalisation Directive. I also think that in the eyes of the experts who do remind us that the world is not waiting for us, that the Malaga airport in particular is surging ahead, that its business increases, that the day we want to commercialise our airport it will be very hard to break into the market and to compete with them and the longer that we leave it the more difficult that will become. I would seek specific changes that would make the Airport Agreement acceptable to me would be obviously on the question of the veto, on the question of one airport agreement and not two but also the question of financial arrangements that would be involved. Whether or not what would be the Spanish financial involvement? Would Britain continue to subsidise the airport while it was making a loss until it turned to profit? And when that day arrived would it then be willing to hand the airport over to us so that all its profits could come directly to the people of Gibraltar? Those would be the assurances and the clarifications that I would be seeking before I would be willing to accept an airport agreement. Mr Speaker, in the airport demonstration where so many Gibraltarians took to the streets to protest in shock and horror, I was amongst them. I was as shocked and angry and horrified as anybody else. There had been some months of indications that something was cooking but in a matter

of months one does not come to terms with something as shocking as that was to us - that Britain could have done that to us in any circumstances, that it could have taken what we considered to be our airport and offer it to Spain to have authority over it. It was something that I associated with completely to reject, that we reject and we reject and the world moves on and are we going to be stuck in that moment of the airport demonstration emotionally stuck to that going round with the same and the same thing whilst the rest of the world moved on or will be try to adapt and survive and make the best of what is admittedly a bad job?

I commend the motion to the House.

MR SPEAKER:

I now propose the question in the terms of the motion moved by the Hon Mr Peter Cumming. I take it that all hon Members have copies of the motion. Any member now who wishes to speak can do so. I just want to make it clear before we speak, if there is any amendment which turns it into another new proposition the procedure will be exactly the same as before, that I would not like any member to stay out of the debate simply because he did not hear what the procedure was.

HON P CARUANA:

Mr Speaker, I suspect that you have let the Chief Minister's cat out of the bag.

MR SPEAKER:

What I just want to make sure is that nobody else is (Interruption)

Order, order.

HON P CARUANA:

I am obliged to you Mr Speaker. Mr Speaker, the members of the Opposition will not be supporting this motion. In the first place the motion reads: "This House wishes to review the Airport Agreement in order to propose specific changes". The Airport Agreement is not an agreement to which this House or indeed the Government that flows from it is a party. It is therefore not ours to review. It is therefore not an agreement which this House is in a position to amend by anything that we might decide in it. If it were, it would have been dealt with long ago. Furthermore, the agreement itself is now so discredited, not just by the political damage that has been done to it by the different interpretations put on it by the British

Government and the Spanish Government but also by the entrenched views that we, the people of Gibraltar, have now taken on it. Indeed, also by the changes that there have been; the progressions that there have been on European Union laws in matters relating to air liberalisation; that the defects in the agreement are now so extreme that they are not capable of eradication by amendment and furthermore, Mr Speaker, thirdly any airport agreement which might be acceptable to us is not likely to be an agreement that can be scribbled casually as this one is on two and a half pages of print. It is always interesting to remember that the agreement applying to Mulhouse/Basle Airport over the sovereignty of which there is no dispute run into something like 4,000 pages. The suggestion, therefore, that any agreement likely to be acceptable to the Parliament of Gibraltar can be dealt with in 2.5 pages is, frankly, absurd and therefore there is no 2.5 page agreement that can be amended in order to make it acceptable to at least the party that I lead. That said this House knows that my party considers that it would be in Gibraltar's commercial interests to explore the possibilities of arriving at a different airport agreement based exclusively on commercial considerations. I take cognizance of the Hon Mr Cumming's point that that might be an attempt to make an omelette without breaking eggs. Let me tell the hon Member that whilst we believe that a commercial agreement with no sovereignty implications is in Gibraltar's commercial interests, if notwithstanding whatever initiative we take on it, if notwithstanding all attempts by us, Britain and others to persuade the Spaniards to accept it, if they reject it, then there will be no airport agreement because as far as we are concerned whatever the commercial advantage to Gibraltar of having an airport agreement if the only way of securing one is that we should make concessions over the sovereignty of the territory on which it is built or indeed that we should compromise our exclusive ownership of the airport then the answer is that we would all of us much rather not have an airport agreement at all and if the result of that is that in three years time we lose it, well then, frankly, we should convert it into a racecourse because if the choice is between losing the airport and giving away the half of the sovereignty of the land on which it is built to the Spaniards, I would rather lose the airport. Now, that does not prevent me from holding the view which I do that Gibraltar should be more pro-active in trying to smoke the Spaniards out. Gibraltar should be more proactive in throwing on the tables in London and in Europe a commercial airport agreement that is acceptable to us and let the Spaniards explain to Europe why it is not acceptable to them. That is our approach to the airport agreement. I am haunted by the words of an English MP when we were in London, I do not remember when, some time during the last 12 months, in the CPA Regional Conference the last one of which took place in London and one MP in the House of Commons - one would expect that English MPs are the best informed, they

are not always very well informed but certainly they are the best informed, one would expect them to be better informed than the MPs in the rest of the European Union - this man asked me in raising the question of the airport agreement he said "What is the matter with you, Gibraltarians? Why don't you want to let Iberia use the Gibraltar airfield?" and I said "I beg your pardon?" and he said "Yes, why do you not want to allow Iberia to use your airport?" and I said "Is that your perception of the problem surrounding the 1987 Airport Agreement because it has nothing to do with that issue?" and of course it took me 15 or 20 minutes to explain to him what the real problems in relation to the Airport Agreement were but it struck me then as it always has done that we are the victims of much misunderstanding even amongst our friends of what opposition on the Airport Agreement is. Problems that we could avoid, problems that we could assist to dispel by taking the initiative, putting together a demonstrably commercial airport agreement with no..... to use the words that have been used in this House before, with no political strings attached. Let them reign in great numbers around every opinion former's table in Europe and then let us listen to what the Spaniards tell their European partners and that MP in London about why the people of Gibraltar do not want to share. It is not that the people of Gibraltar do not want to. We know what we want and we know what we do not want. We put on the table what we are prepared to have. It puts the onus on them to explain to others who are presently labouring under misconceptions as to what it is that they want. Therefore, Mr Speaker, for all of those reasons I do not feel that we can support this motion.

HON CHIEF MINISTER:

Mr Speaker, we do not support the motion moved by the Hon Mr Cumming either. There is much that the Leader of the Opposition has said that I agree with which is not a very frequent occurrence. I have to say that I agree with him that there are many United Kingdom MP's who one would expect to be better informed, who do not particularly appear to be well informed but then we have to look closer at home than that, after having listened to the Hon Mr Cumming, I do not think he is particularly well informed. So, before we start educating our friends in Parliament in the United Kingdom and then our friends in the European Parliament, we would have to start educating him while he is still with us. I have to say that having listened to him speaking in support of this motion I have heard him say all the very things which I think he ought not to be saying and which has led us to believe in the Government benches that the things that he says through ignorance as much as anything else and it is all very well as the hon Member said in the previous motion that if I accused the Opposition Member of being of unsound mind,

why should I worry about the attention they pay to him in Madrid? Well, because here we have a motion in the House of Assembly moved by a Member of the House of Assembly who is telling us that he will never support any sharing of the sovereignty of the land but it is a different issue to share the sovereignty of the landing rights. Look, the landing rights is as important as the land. He is saying that he does not mind sharing the decision of giving permission to somebody to come to Gibraltar, Mr Speaker. That is what being the competent authority and granting landing rights means. It means that someone thinks that if a Frenchman needs the permission of the Spanish Foreign Secretary to come to Gibraltar, he does not think that is an issue of sovereignty because nobody has said the land is Spanish. How long will it be before one thing leads to the other? One is as objectionable as the other. We would not pretend in Gibraltar to tell anybody who can go or cannot go to La Linea. Why should anybody tell us who can come or not come to Gibraltar? That is what we are talking about. Now, to actually stand up in this House and say there is a difference between the two things and then to say that the Chamber in wanting a commercial deal without political concessions is wanting to make an omelette without breaking eggs. Well, which are the eggs he wants to break? The eggs translated into Spanish that he wants to break are going to upset a lot of people here. I have to say that the hon Member in introducing his motion did not seem to understand just how big a difference there was between the position of what happened in 1987 and for example the fact that we have welcomed the position that the United Kingdom took on the Life Directive. There is a fundamental difference between the two things because this was not a meeting of the European Union where there were 10 previous occasions, where on 10 times there had been a phrase saying "This does not apply to Gibraltar" 10 times and then on the eleventh time Spain says "We want the same clause" and UK says "No". This is important and it is worth recognising that it is important and it is not normal. They have stood up on other issues before on the external frontiers they vetoed it since 1991 and we warmly congratulated them for it. On the Identity Card they threatened to take legal action and we congratulated them for it and on this occasion they said "The fact that we said yes 10 times before does not mean what Spain says it means and we want to say it now and for the previous 10 times" and I think the hon Member ought to recognise that that which has not happened before is worth recognising as something positive on the part of the United Kingdom Government just like we criticise them when they do things which we think are not doing what they are obliged to do in defending our interests and we can understand that sometimes they do not go as far as we would like them to go but if they go at least 90 per cent of the way then we ought to respond differently from when they go 10 per cent of the way and these are facts. He can check those facts from himself. So we have a situation where what took place in 1987 and the hon Member has told

us that because in 1987 the agreement to share the airport with Spain came as a shock to everyone including himself, he has now got over the shock, and now he is prepared to think the unthinkable, what was unthinkable in 1987 and that we should now be trapped in the position we took in 1987; that we should move with the times. Why should any of us believe him when he says in the next motion that he will never surrender sovereignty? Suppose he moves with the times in another nine years as he moved from the time since the demonstration on the airport? The fact that we are not moving on the airport is a guarantee that we are not going to move on an inch of our soil, of one grain of sand on our beaches and he may think that it is emotional, fanatical and patriotic. Well, I can tell him that that is what the Gibraltarians feel like deep down inside. That does not mean we are hostile to Spain or that we want to have rows with either them or the UK but when the crunch comes people have to stand up and be counted. Mr Speaker, when the hon Member thought about the speech of Solana to the Foreign Affairs Committee saying if we had implemented the Airport Agreement that would have been a confidence-building measure, he was not talking about our confidence, he was talking about their confidence. The hon Member has totally misunderstood upside down what Solana was saying. Solana was saying we have no confidence that the UK Government can deliver anything under Brussels because the one thing they promised has not been delivered and if they implement we will regain our confidence in the process of osmosis. That is what he was saying to the Foreign Affairs Committee and he was saying "We want a gesture from the UK to us" not a gesture to the Gibraltarians. What Solana and the rest of the Foreign Affairs Committee believe is that the UK defends us too much. We believe they defend us too little but the Spaniards believe they defend us too much and what they mean by building their confidence is that the British Government should be less firm on the insistence that they have to respect our wishes and if our wishes is that we dig our heels and we will not move then we should be cajoled, pushed or nudged or all the other things that occasionally find their way into articles. I have to say that we understand that the survey carried out by the Chamber of Commerce said that most people wanted the airport not necessarily in the 1987 Airport Agreement but the airport to have a way of being utilised. It all depends how the question is put but I do not know of anybody in Gibraltar who would not subscribe to the idea of having more flights coming to the airport, whether from Spain or from anywhere else provided we were clear that this was being done in a way which did not put in doubt on which part of the frontier the airport is - on ours and we are happy to let anybody use it but at the end of the day what we cannot do is let people use our property and then finish up having to need their permission to use it ourselves. And what is wrong with the Airport Agreement and which is different from the recent exclusion of Gibraltar on

ground handling is that the Airport Agreement even gives the right of consultation under article 1 on nonEEC flights which has nothing to do with the EEC. I can tell the hon Member that when I was in the Opposition in 1987 and there was this indication of what was being cooked in the Airport Agreement my advice to the British Government which they chose not to take and they did not have to take because they did not have to consult me, they had to consult the Government of Gibraltar and not the Opposition but I offered it unsolicited and I said "Look, if you really are in a situation where you feel that you have no choice, at the very least do not sign an agreement on the conditions that we have to accept to go in because then you are locking us out permanently. The actual Spanish position in July 1987 was better for Gibraltar than what the British signed in November. What Sir Geoffrey Howe rejected in Luxembourg on the 7th July 1987 which was the position that Spain was willing to settle for when all the members were sitting together - and it was a compromise - was a worse deal for them and a better deal for us than what was finally done bilaterally because the July position which Spain had the support of the other Member States and which the UK vetoed was a temporary suspension of the directive in respect of Gibraltar until we agreed how it would apply and that left us with a totally blank sheet of paper. What we have now is a permanent suspension of the directive where Spain says "The only way that you are going to get back is to implement what was there in 1987 irrespective of how out of date it is, of how irrelevant it is, because there is your signature and it says here it will come in when the House of Assembly approves it and therefore all I need to do is wait and it is either this or nothing". Therefore the hon Member is right in saying Spain will not give up the veto, easily or perhaps even at all. But then if he believes that Spain will not give up the veto, easily or at all, is he not guilty of trying to make an omelette without breaking eggs? Or is he saying, because they will not give up the veto we will give up the opposition to the veto? Therefore having listened to his arguments I propose to move an amendment which I think reflects the correct position and the way forward, and I beg to move that the motion be amended by the deletion of all the words after "The House" and the substitution of the following words:

- (1) Notes that the Anglo/Spanish Airport Agreement 1987 was rejected by the Gibraltar Government in 1988 and unanimously rejected by this House on the 27th March 1991;
- (2) Notes that the terms of the Agreement are acknowledged by Her Majesty's Government to be now incompatible with Community law and in need of amendment;
- (3) Notes that all efforts at amending the Agreement have been rejected by Spain;

- (4) Calls on Her Majesty's Government to formally notify Spain that it is terminating the said Agreement; and
- (5) Considers that any future arrangements for the greater utilisation of the airport should be purely commercial without political implications for its status as a British Regional Airport within Gibraltar's jurisdiction."

Mr Speaker I imagine that even Mr Holliday will approve my amendment especially Mr Holliday even since he is such a recent convert he might even become unconverted, we never know. The House of Assembly has in fact passed many, many motions on the airport and the position has always been consistent in separating the inescapable commercial logic of creating more economic activity which would be of benefit not just to Gibraltar but to the whole of the hinterland and seeking that we on our side should have to pay a political price to obtain the economic benefit which nobody else is being asked to pay. Nobody is saying "Look, you have to share the sovereignty of what used to be the other side of the isthmus" which suddenly disappeared one night and we found that the guard had moved across what we used to call the neutral ground. Nobody is saying we are going to have something where there is use of land on both sides which we both have rights over. What we are saying is here is land on our side, an airport built by us and it is a nonsense to talk about the dispute of sovereignty and the Treaty of Utrecht and the isthmus like the Spaniards speak in the European Court of Justice because to argue that the reason why they cannot accept that the airport is in the European Union is because the airport only joined the European Union in 1986 when they joined and not in 1973 when the rest of Gibraltar joined, is a complete nonsense in the context of the 1984 Brussels Agreement where they asked for advance EEC rights not once they had crossed the isthmus but as soon as they crossed the frontier.

The Spaniards were not saying because we do not think the airport is in Europe in 1984 what we are saying is "You leave Spain, you enter non-European Gibraltar when you cross the runway and then you enter European Gibraltar when you get to the Glacis Estate." They did not say that in 1984 but they actually had the audacity to put that case to 13 judges - two of whom were Spanish - in the European Court of Justice and they did it without blinking an eyelid and they argued that their position was a very clear one. Here we had a piece of land which they said was part of the Member State Spain and the UK said was part of the Member State UK, and like all disputes in this reasonable era of dialogue what we do is we say "Well, look, it is neither one nor the others", except that I was in the tenth row back without having a voice trying to say "Wait a minute, it is my piece of land, it is not one or the other" but we did not have a say because we are not a sovereign country and because we are not a

Member State and because we are not allowed to go to the European Court of Justice and, regrettably, the entity that could have gone which was Gibraltar Airways was not prepared to go because it is not just the British Government that when it is pulled between political responsibility and commercial interests, get swayed, it was the fact that GB Airways had then flights to Jerez and to a number of other destinations in Spain which made them say to me quite clearly "Look, we understand that it will be very valuable if we as an airline did the case but if we go there as an airline we will never leave Jerez again if we are allowed to land" and I could understand it because at the end of the day it is a business and it was a political battle. But we need to understand that if that is done by GB Airways then it is not surprising if it is done by British Airways or done by commercial interests in the United Kingdom when they come to fighting over extending the air liberalisation programme in the European Union because they stand to make money. Clearly, this would not be an easy thing for the United Kingdom to do but at the end of the day I can see no other way. If we are all convinced that there is no prospect of the House of Assembly ever agreeing to implement that 1987 agreement then presumably agreements that are unimplementable can be capable of being terminated, I would have thought. It is an agreement without a set date but certain things were supposed to be happening in 1987 and 1988 which did not happen and which are not going to happen in 1997 and 1998, 10 years later. I can tell the House that it would not be too difficult to obtain the necessary private capital to develop the airport if we could find a way of freeing it from political ramifications. It would not be too difficult. We have in the time we have been in Government, we have had a parade of people who always said "We think the geography of Gibraltar makes this a viable proposition provided we can be given reassurance that we are not going to invest millions and then somebody is going to come along and say "Well, there is an airban and you cannot land". We have had situation where, quite apart from anything else one of the extraordinary omissions in the 1987 agreement is that it did not even commit the Spaniards to removing the restriction on the flight plan to Gibraltar. It was so badly drafted, as the Leader of the Opposition has said, in a hurried fashion to meet a deadline on a couple of pages that even though it envisaged flights from Spain it did not even provide for the plane to be able to come straight from Spain to Gibraltar without having to go round the Rock across the Bay and not pass over Algeciras, not even that. One would have thought the logical thing is that the air restrictions were put there by Franco in 1973 or 1974, it would be one of the clauses saying the restrictions on air approaches will be removed on the implementation of the agreement. That is not there and I can tell the House that when I raised this with London shortly after being in Government and we looked at the agreement, they said "Well, we have taken it for granted that that will happen", but assuming that something will

happen with the Spaniards because they put it black upon white and signed it is a hell of an assumption. Assuming they are going to do something they have not even put down, one must be living in another world if one believes that and therefore clearly the agreement leaves a great deal to be desired and if we are going to have something else the next thing the UK Government have got to take the bull by the horns and go back to Spain and say "Look, this is a non-starter if we really want to make some progress and if we are really serious about working together for a sustainable economy in Gibraltar and in the surrounding area let us accept that we have got to go back to square one and let us scrap the old agreement. I can tell the House that I have no doubt that if we could find a way of producing the scenario of externalising the issue from issues of sovereignty and dispute and political sensitivities - which is easier said than done, I do not pretend to have the answer - then there would be absolutely no problem in getting 100 per cent private capital to invest in developing Gibraltar into a major international airport feeding the zone because the competition for such a site in this particular part of the world is very great. There are many people who are prepared to risk their capital, who are experts in the field. The people that we have had coming to see us are not people who do not know what they are talking about, they are people who can produce the necessary credentials to convince us that they know how to run major airports and that they are involved in this business. It would seem to me that the way we phrase the fifth clause would meet what I imagine most people would want if they were asked and therefore if one assumes that what the business community is saying is that they want a commercial airport without political implications is because they see the airport as something that can be of great benefit to everybody concerned but of course if we have to put a price on our liberty, on our rights, on our freedom, on us being able to decide who comes into our country and who does not, then no price is too high and therefore if the price is no commercial deal or no airport, that is the price we will pay. I commend the amendment to the House.

MR SPEAKER:

I now propose the question in the terms of the amendment moved by the Chief Minister, the Hon Mr Joe Bossano.

Let me explain the procedure now. Again, this amendment does not modify the original motion. It is an alternate proposition. Therefore we shall follow the rules that we did last time, that is, any Member can speak now on both the motion and the amendment and the winding up will be done by the Chief Minister for the amendment and then after him the Hon Mr Peter Cumming for the original motion. Any one who has spoken on the original motion can now speak again but any member who does not speak now cannot speak after the Chief Minister speaks winding up the amendment.

HON P R CARUANA:

Mr Speaker's explanations of the rule are clear as always. Mr Speaker, we have absolutely no difficulty in supporting the Chief Minister's replacement of the motion which I believe correctly states the position around which this House should unite. I would, however, like to suggest some improvements to it which I will not do formally unless the Chief Minister indicates that he will accept it because I do not want to complicate the debate. I am quite happy to support it as it is but if we can improve it I would suggest amendments in paragraph 2. One of the things that I said in my own address to the Hon Mr Cumming's motion is that I do not think that the Airport Agreement of 1987 is capable of being rendered acceptable by simple amendment and indeed I think the Chief Minister recognised the same thing in his moving of the amendment when he said that the reality of it is that the Airport Agreement of 1987 cannot be implemented. I would therefore suggest to them that they consider therefore whether the use of the words "and in need of amendment" is not unduly generous to the 1987 Airport Agreement. I would much rather say something like "Notes that the terms of the Airport Agreement are acknowledged by HMG to be now incompatible with Community law" and then say one of two things, either "cannot be rectified by amendment" or alternatively "cannot therefore be implemented". We would then say in paragraph 3 "Notes that in any event all efforts at amending the agreement have been rejected by Spain". We then go on to call on HMG to formally notify Spain that it is terminated, not because it needs amendment but precisely because it cannot be amended. That is why it needs to be terminated because if the Agreement can be amended it does not need terminating. I give way.

HON CHIEF MINISTER:

There is a slight problem in Paragraph 2 in that although I agree with the Opposition Member effectively what Paragraph 2 is reflecting is the view that has been put by the UK. That is to say, the UK has said publicly already that we need to update the Agreement and they have put that view to the Spanish Government who have in turn rejected it by saying "Implement first and then we will look at updating it". I agree with him that the view of us here in Gibraltar is that it cannot be implemented but it is not a view that the UK has ever necessarily accepted and it certainly has not accepted it publicly. Publicly it has said it is capable of being amended and has urged Spain on a number of occasions both formally and informally to recognise that the way forward is the updating of it.

HON P R CARUANA:

Perhaps we could say that it is incompatible with Community law and therefore is in need of updating, we could then

add "before implementation" just to take care of the Spanish argument.

HON P CUMMING:

Mr Speaker would the hon Member give way?

MR SPEAKER:

Just a second please, let us clear the actual wording of the amendment first.

HON P R CARUANA:

Mr Speaker what we want to do is carry a motion I am not going to propose any amendments unless the Chief Minister has indicated so I am not proposing a formal amendment. They are considering possible wording which if they indicate they will accept, I will propose it.

MR SPEAKER:

Let me clear the position if there is an agreement to an amendment to an amendment then we have to vote on the amendment to the amendment when all Members can speak on that. What we are trying to clear now is whether the Government agree with the amendment of the Leader of the Opposition. Let us hear that first.

HON P R CARUANA:

Can I just summarise where we have come to Mr Speaker. The latest proposition is that we delete the words "in need of amendment" and substitute them with the words "is therefore in need of updating before implementation".

HON CHIEF MINISTER:

Mr Speaker I think there is a difficulty. To be quite honest with the Opposition Member I think his first amendment made paragraph 2 tougher and the second amendment makes it weaker if he analyses it, because we started off by saying we remove that it is in need of amendment and instead we say "it cannot be implemented" and therefore it is dead and now we are saying "is in need of updating before implementation" and of course "updating" is not as strong a word as "amending".

HON P R CARUANA:

I accept that. I am quite happy Mr Speaker. This motion is intended to reflect the views of this House, not the views of Her Majesty's Government and, frankly, if this House believes that the agreement is incapable of implementation and therefore should be terminated, that is what we should say, and let us just say "and is therefore it cannot be implemented".

HON CHIEF MINISTER:

I accept that entirely and I think the original thing is acceptable to us by adding the words "and cannot be implemented" but that we need perhaps grammatically have something which distinguishes between what is acknowledged by Her Majesty's Government which is that it is incompatible with Community law and what we believe which is that it cannot be implemented.

HON P R CARUANA:

Mr Speaker, it might be done by splitting the two paragraphs. "Notes that the terms of the Agreement are acknowledged by her Majesty Government to be now incompatible with Community law. 3. Considers that the said Agreement cannot therefore be implemented" and then we carry on. We just separate the concepts by having them in different paragraphs. I do not want to make too heavy weather of this. Frankly, the political message is the same except that we are leaving open the possibility of amendment. Perhaps they can amend the 1987 Airport Agreement in the same sort of way as the Chief Minister amends the Hon Mr Cumming's motion, by deleting everything after the first words and starting with a clean sheet.

MR SPEAKER:

Let us be careful, we cannot get all bogged down in this. Let us clear now, between the Leader of the Opposition and the Chief Minister what is going to be the wording of the amendment and if the Chief Minister has got anything written down, could he please pass it on to me and to the Clerk.

HON CHIEF MINISTER:

I would suggest that the best thing would be Mr Speaker that the Leader of the Opposition should introduce a new Paragraph 4 because I think it is better that Paragraph 3 comes after Paragraph 2 given the fact that it follows logically and that the new Paragraph 4 should say "Considers that the Agreement is incapable of implementation" and then of course Paragraph 4 becomes Paragraph 5 and follows logically because if we consider it incapable of implementation then it is natural that we should ask HMG to formally terminate it and that would introduce it at a place where it makes more sense and of course it is a sentiment that we share entirely so I suggest if we introduce a new Paragraph which just says that and makes clear to us the view of the House and then renumber Paragraphs 4 and 5. That should cover the point.

HON P R CARUANA:

Yes, Mr Speaker, I think that that is what I had suggested

although I think I had suggested putting the new clause in at Paragraph 3 instead of at Paragraph 4. I am very happy to move the amendment as a new Paragraph 4 in terms of "This House considers that the Agreement is incapable of implementation" and that we renumber Paragraphs 4 and 5 as Paragraph 5 and 6 respectively. Mr Speaker there is just one other point which a perfect motion might cover and that is that in saying in what is now Paragraph 6 what is acceptable to the House one of the preconditions to render any Airport Agreement acceptable to this House of course is that it should be approved by this House and that we should not be exposed to other people's interpretations of what is purely commercial. In other words, that we ought to introduce the concept that there should not again be an airport agreement which is signed bilaterally without our advance consent and I would therefore contemplate a possible amendment by adding the words at the very end, after the word "jurisdiction" "and must be acceptable to the House of Assembly".

MR SPEAKER:

Will the Leader of the Opposition now introduce formally the amendment please?

HON P R CARUANA:

Mr Speaker I beg to move the following amendment to the Chief Minister's amendment to the motion. I suggest that existing paragraphs 4 and 5 be renumbered 5 and 6 respectively and that a new paragraph 4 be inserted to read as follows:

"Considers that the Agreement is incapable of implementation" and I further propose that the full stop at the end of what is now Paragraph 6 should be removed and the following words added there: "and must be acceptable to this House".

MR SPEAKER:

I take it this is fully understood now. I am going to propose the amendment to the amendment and then of course again everybody can speak who have not spoken on the amendment to the amendment. I now propose the question in the terms of the amendment moved by the Leader of the Opposition the Hon Mr Peter Caruana.

HON P CUMMING:

Mr Speaker, the original Paragraph 4 on the amendment which talks about terminating the said Agreement reminds me of one of the papers that I was reviewing last night in preparation for this with reference to the airport.

MR SPEAKER:

Please speak on the amendment to the amendment now.

HON P CUMMING:

Terminating the agreement is what I am referring to. In one of the papers that I was reading it seems that the question of the Airport Agreement cannot in fact be terminated because it is practically engraved in stone in the sense that it is mentioned in the Directive and to change the Directive is so immensely complicated that even though one could perhaps say "Airport Agreement now means something else" but the only way for Gibraltar to get into the liberalisation is through the Airport Agreement whether we can change the content of what it means but apparently according to the paper in which the Chief Minister had contributed we must always have an airport agreement because it is in the Directive and the Directive cannot be changed. Will I have an opportunity to say other things Mr Speaker?

Question put. The House voted. All hon Members voted in favour except the Hon P Cumming who abstained.

The amendment to the proposed amendment was carried.

HON CHIEF MINISTER:

I want to say very little more Mr Speaker other than to say that it is obviously very welcome that we are able to carry this and I would hope that one of the last acts of the Hon Mr Cumming will be to vote in favour of this so that we do not break the record that we have in all previous airport motions in the House where every hon Member voting has in fact voted in support and I think it would be better, if he cannot bring himself to vote in favour, if he were to temporarily absent himself and at least not have on the record that there is any dissenting voice on this motion which I propose to put to the British Government and which has got clearly a very important message to say.

MR SPEAKER:

Now I call upon the mover of the original motion the Hon Mr Peter Cumming.

HON P CUMMING:

I just want to make a small reference to something the Chief Minister said referring to sovereignty and not giving up an inch of sovereignty. It seems to me Mr Speaker that it is rather difficult to measure sovereignty in inches nowadays. I would measure it more in shareholding because obviously there are sovereignty implications in the Airport Agreement as it stands which cannot be measured in inches but in the shareholding that they would achieve in the whole thing in the end. I would like to return to the question of eggs and omelettes and I am very loathe to interfere with a motion that the House may think is of some use and therefore avail myself of the Chief Minister's advice to go to the loo but I would just like to say why

I feel that the question of the eggs and the omelettes is important because I feel that a motion like this gives our people false hopes that an airport agreement is possible which is purely commercial. I think it may be a good diplomatic move as the Leader of the Opposition is saying that it would show that it is the Spaniards in a bad light and it is them that do not cooperate and that they want a hostile sovereignty claim already and it is not us that stops Iberia from to Gibraltar. It could be a useful diplomatic exercise but in the foreseeable future Spain will be persuaded by dialogue or by diplomacy to give up the stranglehold it has got on our entry to the Air Liberalisation, I think is to mislead the people and to give false hope.

HON P R CARUANA:

If the hon Member will give way to me. Mr Speaker, the motion presented originally by the hon Member read: "This House wishes to review the Airport Agreement in order to propose specific changes that would render it acceptable". Presumably he meant acceptable to the people of Gibraltar.

My point is not made in jest. I would ask him to consider that perhaps he does not need to rush out to the loo because really this motion as amended must reflect the views of the people which if it is not complied with would not be acceptable as he himself has admitted in his own motion is required. Which of the following preconditions for acceptability would the hon Member be willing to drop? Does he not agree that a future arrangement for greater utilisation of the agreement should be purely commercial without political implications? Well he must agree with that because he is telling us that he is not willing to make sovereignty concessions and therefore he must accept that it has to be purely commercial without political implications. Surely he agrees that an airport agreement for it to be acceptable which is what he thinks it should be acceptable under the terms of his own motion has to preserve the airport as British because he must know that an airport agreement which compromises the status of the airport as being totally British is not going to be acceptable and therefore would not comply with his own motion and presumably he agrees that it must be acceptable to this House. Therefore since he agrees with all the preconditions that this motion attaches to acceptability of an airport agreement really it is only saying in more words what he was saying with admirable brevity in two lines. Namely, that the Airport Agreement needs changing in order to make it acceptable, and I would really urge him not to rush out to the loo but to stay here and vote in favour of this motion which really is on all fours on the basis of additional explanations which remove all possible ambiguity. In other words, that it is certainly entirely consistent with his own motion and therefore in the interests of the unity on this matter for which however

the hon Member may wish to interpret the Chamber of Commerce surveys this is an issue upon which there is complete and utter unity and consensus amongst the people of Gibraltar. I think it would be nice and helpful if on this issue which is perhaps the least contentious issue politically in Gibraltar in the sense that there are no divisions amongst us, that consensus should be reflected also in the vote of this House.

HON P CUMMING:

Mr Speaker, my grandmother used to tell me many stories as a child of many delightful days spent at the airport in Victoria Gardens and at the racecourses and I see a delightful picture there all green instead of bare concrete, lovely racecourses, people coming from Marbella to watch the racecourses like Royal Ascot; stables all round, trees, lovely, beautiful. I vote in favour of that picture. What I want is that we should be consistent that we must say now that the Leader of the Opposition is in a position to say to Mr Holliday "Look, do not bleat and whine about the airport because only any moves that we are going to make are simply diplomatic to put pressure on Spain but there is no possibility of a commercial airport as you keep bleating and whining about. So tighten your belts, forget about the airport because we will have an airport while the British subsidise it and then we will not have it any longer" and let us not give false hopes to our people that round the corner there is an easy fix for the airport because there is not. I am prepared to sacrifice the airport if everybody else is. I will tighten my belt but let us not have mealy-mouthed statements about making it to the people that this is going to come easy.

Question put on the amended amendment to the motion.

The House voted.

The motion, as amended, was carried unanimously. It read as follows -

"This House -

- (1) Notes that the Anglo/Spanish Airport Agreement 1987 was rejected by the Gibraltar Government in 1988 and unanimously rejected by this House on 27 March 1991;
- (2) Notes that the terms of the Agreement are acknowledged by HMG to be now incompatible with Community law and in need of amendment;
- (3) Notes that all efforts at amending the Agreement have been rejected by Spain;
- (4) Considers that the Agreement is incapable of implementation;

- (5) Calls on HMG to formally notify Spain that it is terminating the said Agreement;
- (6) Considers that any future arrangements for greater utilisation of the Airport should be purely commercial without political implications for its status as a British regional airport within Gibraltar's jurisdiction and must be acceptable to this House".

The original motion was defeated.

THE HON P CUMMING:

Mr Speaker I wish to move a motion:

"That this House:

1. reaffirms its belief that the people of Gibraltar will never be willing to surrender to the hostile Spanish sovereignty claim in spite of the many sacrifices which we shall be called upon to make in continuing to resist including a lowering standard of living and increasing immigration in search of jobs; and
2. nonetheless calls on the people of Gibraltar to support a process of dialogue with Spain in which we can assist Spain to adopt a new and more democratic attitude to the Gibraltar question and explore the possibilities of a favourable compromised settlement".

Mr Speaker, to have any hope of solving the problem of the future of Gibraltar before we can plan a solution first we have to identify the problem. What exactly then is the problem that the people of Gibraltar face? I believe that the people of Gibraltar have been protected from the harsh realities of our situation for too long by the whole political establishment including the press. Britain guarantees us one thing only and that is the Preamble to the Constitution. We will not be passed over to Spain against our democratically expressed wishes. Nothing else. The Foreign Office plans to leave us simmering in our own juice until we are ready for change. Mr Speaker in the Parliamentarian magazine that we receive as members of the Commonwealth Parliamentary Association in the last magazine there is an article written about St Helena and the problems that St Helena face. I have twice met delegates from St Helena in CPA Conferences and in the last one on the Isle of Man there was a young lady newly elected who, in addressing the Conference about the problems that St Helena faces with its relationship to Britain, actually broke down in tears and in fact it was a devastating speech because within minutes there was a lobby of the House of Commons formed, a new lobby group, the St Helena lobby was formed within half an hour to take

up the interests of St Helena in Parliament. There they have no airport and they are isolated and I cannot remember exactly the number of weeks that it had taken these delegates to reach the CPA Conference but it may have been as many as six weeks because they have a little boat and it takes a long time to reach civilisation, as it were. Now there is only one flag in St Helena. It is the British flag and they have a statute from Charles I guaranteeing that they are as English and Englishmen born in England and they are subsisting on budgetary aid from UK frozen for as many years as they choose and they are complaining about a generator which is constantly breaking down. A new replacement has been cancelled by ODA. They have to wait now for another three years in the hope that it will then be replaced. They have electricity power cuts. Their children go to school without food. Unemployment has gone up by 200 per cent in the last year. They are very worried people, without an economy, with very tenuous contacts with outside. When they come to Britain they have to have visas stamped on their passports and have to present themselves at police stations. It is incredible and this lady who burst into tears about the problems. She said "There would only be enough St Helenians wanting to enter Britain freely if they were allowed to fill a bus." What I do not want for the Gibraltar that I love is to find ourselves deteriorating into the position that St Helena finds itself and is apparently getting worse not better. Really the thesis of the GSLP for Gibraltar's future I find incredible. Some people as I say have said that I am naive but the way that I see their programme for our future is that through the United Nations we reverse the United Nations resolutions. Now, this is like climbing the wave and one climbs up the wave but as one goes climbing, the wave goes getting bigger faster than one can climb. The Chief Minister himself has referred to the difficulties of persuading delegates who next time he goes have been replaced by somebody else and he has got to start at the beginning to persuade them again. United Nations resolutions then prompt other nations to assist, to come to Gibraltar's aid by putting pressure on Spain. Spain then succumbs to that pressure and abandons its claim to Gibraltar and then we live happily ever after. If that is the way the future is laid down for the people of Gibraltar by the GSLP I would ask the GSLP to stop misleading the people of Gibraltar. We are also asking Britain to support Gibraltar more wholeheartedly and in order to do that they must fall out with Spain permanently. They must support our economy permanently. They must defend us militarily on a permanent basis and they must accept the loss of business and political support from Europe that would be caused by rupture with Spain. I would submit Mr Speaker that it is too much to ask from Britain who will always put their national interests before ours.

In formulating this motion in two parts. The first part we resist surrender with everything that we have got the

second part we try to leave no stone unturned to see whether there is a favourably compromise that could possibly be reached to bring home the fact that it really is true that we are facing harsh economic future over the next few years, gradually increasing one. People say that my message is ahead of its time. I always ask "How many years do you think that it is ahead of its time. Is it three, four, ten?" I believe it to be three. Now we come up to an election period where the normal thing is election promises and we have got to be very careful with the election promises at this time when our economy is so likely to enter recession, that promises do not mislead the people seriously on the question of our future. The GSD is also implicated in this. We have Mr Netto for example offering everything that he knows as an expert that the unions want and this is what he is going to try to achieve for them. I am sure he will do his best. Mr Holliday knows as an expert of the Chamber of Commerce what the Chamber of Commerce needs, less rates, less municipal charges and so on, and this is what he undertakes to pursue on their behalf and then somebody will have to add up the bill and say how is it going to be paid. On the other hand the GSLP, I have no indication what its manifesto may contain but if it was to be honest and consistent with their views they would not be offering any goodies at all in this election. They will be offering like Churchill, blood, sweat and tears and calling people to a realisation that following the foreign policy that they have what we have to do is to tighten our belts. A stark programme, in other words, that does not mislead the people about the realities that we face. I would call upon the GSLP not to connive with Britain in pretending that over this last year we have not been facing constitutional crisis or that there was no threat of direct rule. It is not that long ago that in this Chamber we discussed the laws that Britain was asking us to pass urgently extending the finance laws to an all crimes basis and I remember vividly the Chief Minister saying that if this was an issue that the people could easily understand, this is a matter that he would take to the people, to the streets. Now it seems incredible to me that the Minister of State for the Foreign Office comes to visit Gibraltar and is asked on television reference to the constitutional crisis and the threat of direct rule and he says "What is that, I have never heard of any press speculation, press speculation". I would ask the GSLP not to connive with the Foreign Office in misleading the people of Gibraltar for a better image at the elections, that these were not the realities that we were facing. In fact it is amazing when we think of the consummate ease with which the Foreign Office saw and brought the Chief Minister to heel, with hands perfectly clean. Afterwards they said "This is never going to appear" and he said "Well, this never happened". This is the coup that never was. When the British Government decided to take the law into their own hands and even act illegally with the confiscation of the launches, even though I greatly support the principle that something had to be

done, nonetheless when they decided to intervene they did not intervene with the agreement or support of the GSLIP Government and they intervened in a way which embarrassed the visit to the United Nations by the Chief Minister, put at risk the Island Games and caused riots. It did not bother them at all.

HON CHIEF MINISTER:

Mr Speaker, will the hon Member give way?

HON P CUMMING:

Certainly.

HON CHIEF MINISTER:

Does he realise what he has just accused the British Government of doing? He is standing here, in the House of Assembly, having been sworn in as a loyal Member of this House and he is accusing the Crown, because that is what the British Government is in Gibraltar, of deliberately behind the back of the elected Government, confiscating private property illegally in order to bring about riots. Of all the insane things I have heard him say in this House, I think this takes the biscuit Mr Speaker.

HON P CUMMING:

It was the Governor himself in the Garrison Library, I do not why it should have been the Garrison Library, I think it may have been the French Consul's reception, told me that the action on the launches put them at risk of court action. Sir John Chapple told me. They must have been outside the law then. I make public some correspondence that I had had with David Davis on the question of what was realistic for our constitutional development because I had written to him on the off change that he might say something useful about Andorra situation solution. He wrote back saying for constitutional reform it was necessary to be realistic so he took the Andorra solution as constitutional reform and I tried to tie him down to what he meant by realistic and of course I tried to tie him down in writing. When he came to Gibraltar, face to face in the Rock Hotel he told my crystal clear - there are two things that make constitutional reform for Gibraltar realistic. One is the bedrock of the Preamble to the Constitution which Spain has to accept and the second is what we have to accept, that Constitutional reform must take into account Spanish sensitivities. That night on television, interviewed by Clive Golt, also urging him to say something about what was realistic and he goes all the way round the garden except to the mention of the realistic thing that we have to face. Obviously if he comes to Gibraltar and there is riots, when he goes back I suppose they tell him off and they say "Look, we did not send you to Gibraltar to

cause trouble. You do not upset the natives". I am sure that Government Members believe me when I tell them that that is what David Davis said to me privately, that he will not repeat it afterwards in public is another matter or that he refuses to put it in writing. One has to deduce from this how Britain will conduct our affairs in the future and I would similarly call upon the GSD in its election campaign not to claim too easily partnership with Britain against Spain because it is clear that the Chief Minister, in the last year or two, has had increasing difficulties in moving Gibraltar's business forward to obtain British help as we feel that that we are entitled to have. In resisting the Spanish claim, often Britain, instead of helping, has been an ally of Spain. In other words the enemy of our independence or of the aspirations that we have held over many years Britain also is associating with our enemy and therefore it would not be too long with the foreign policy as laid down by the GSD before they run into exactly the same problem. Therefore, in appealing to the electorate the GSD also has to be careful not to mislead the people because I think that the most important aspect of the functions of this House of Assembly is not to mislead the people. My position is clear Mr Speaker as regards to the future. I remember Douglas Home in the early 70s Conservative Prime Minister advising the Spaniards that what they must do is to woo the Gibraltarians and of course Scottish gentleman that he was with probably no understanding of the Spanish character it seemed so unlikely that Douglas Home would persuade the Spanish Foreign Minister that his duty now was to woo the Gibraltarians. My position is that what we must do is Spain must try to woo us and we must try to woo them to see whether it is at all possible to come to some intermediate compromise. I believe that we must be like midwives. We must help Spain to give birth to a new more democratic attitude to Gibraltar but we can only do that through dialogue and through an attempt at meeting of minds.

I would like to refer briefly to the speech that the Chief Minister made at the United Nations in July of 1993 where he says "We recognise that there is a disagreement, indeed a dispute, with Spain which places constraints in our ability to exercise our right to self-determination and that these constraints have to be addressed in a process of dialogue in which we are entitled to recognition of our separate identity as a people. I hope that the evolution of new attitudes in Spain towards Gibraltar will make such a process of dialogue and reconciliation easier to achieve". This kind of sentiment has not appeared again in other United Nations speeches and I think it is a pity because I think this is a very valuable element, that is to say, that the Chief Minister has recognised in this text a distinction between the right to self-determination that we all agree we have and the possibility of exercising that right in reality and that he accepts that Spain must be a party in the dialogue that

we must carry out between us, Britain and Spain, as to how we are going to exercise in practice our right to self-determination. This is a very important paragraph and it was picked up by the Leader of the Opposition in a debate that we had on self-determination in January 1995 in which I abstained because on the grounds that this was of course the answer that the GSLP Government was giving to intense British pressure to say "We demand self-determination written into our Constitution" which I would have agreed to at any other time except that in my view this was a provocation in its timing. In the amendment that the Leader of the Opposition proposed at that time there were four aspects. The first is that we assert our rights to self-determination. The second, we call upon Britain to recognise that right in our Constitution. The third, we call for tri-partite dialogue, that is to say Spain, Britain and ourselves on Gibraltar's future status and number four the overriding principle for this dialogue is our right to self-determination. This was the amendment that the Leader of the Opposition proposed at that time and in which I immediately offered to join in order to make a unanimous motion because I saw there something of so much value that it would override the disagreement that I had with the question of provocation because to me it made a blueprint around which Gibraltar as a whole could unite. Because it has all the aspects necessary for broad spectrum consensus in Gibraltar and it opens the possibility of dialogue with Spain and the arrival at some acceptable compromise. Our right to self-determination, we call upon Britain to write that right into our Constitution, to put it into our Constitution and then we accept that the principle of self-determination must be distinguished from putting that abstract right into daily practice so that we can enjoy it. We cannot enjoy, and I have said this before Mr Speaker in this House, self-determination without Spain's toleration in the literal sense of enjoying like a man eats a cake and enjoys it, we cannot enjoy self-determination in Gibraltar without Spain's, at least, tolerance because they would see to it that they harass us and hassle us so that we cannot enjoy the self-determination which we believe is our birthright. I thought it was a great pity, although the Chief Minister did say, but one wonders how much he meant it that this could be brought at a later time to bring a unanimous motion that they would consider going along with, the call for tripartite dialogue he felt was not appropriate at that time.

Mr Speaker, I want to comment very briefly on something that the Chief Minister said at Chatham House recently on the 16 December last at the Royal Institute of International Affairs when he was contrasting the previous address given by a Gibraltarian Chief Minister and his own. What Sir Joshua Hassan had said there in 1983 and he quoted Sir Joshua as saying "The vast majority of Gibraltarians want to live under British sovereignty but

given normal friendly relations, given mutual respect, given cooperation in tourism and trade, and outbound contacts, and the common status as nationals of the European Community the people of Gibraltar may one day take a different view of their relationship with the Spanish State". He added that this was not a promise and it was not even an offer. The Hon Mr Bossano then says "I will go further, if that gives Spain hope then I will be blunt, Gibraltar will never be Spanish. I will campaign for as long as I live against my country's incorporation into the Spanish State and others will follow me". Now, Mr Speaker, it is so easy to be swept along with that sentiment and I myself feel sympathy. In saying Gibraltar will never be Spanish I tend to agree that Gibraltar will never be Spanish, and it will never be Spanish with my consent or with my help but Sir Joshua obviously was leaving a door open for a future time in which it was in fact leaving hope open to Spain that if they behaved differently they may persuade a future generation of Gibraltarians to think differently. The problem is that in the alternative that the Chief Minister has brought forward, if we analyse it, it is pure nationalism and it is in fact anti-democratic because it is one thing to say "Look, I will never allow my grandchild to be Spanish if he wants to be". This is our democratically expressed wishes. If the democratically expressed wishes of the Gibraltarian 50 years down the road is for something different, God bless them. I do not think that will come. It certainly will not come with my help but to stir up that emotional feeling that is pure nationalism and it is in fact when we analyse it, anti-democratic. For myself I have said I will never surrender to Spanish sovereignty. I will never accept the Spanish flag over Gibraltar. I will accept heavy sacrifices in resisting the hostile Spanish sovereignty claim but because I realise that that road will see myself and the Gibraltar that I love impoverished I want to leave no stone unturned in the search for an acceptable alternative to surrender to the hostile Spanish sovereignty claim. Therefore, I believe in dialogue and I believe in searching for the hope that one day a compromise arrangement will be possible. It seems to me that anybody who is totally against any possibility of compromise and the compromise that I suggest sometimes I may have given the wrong impressions thinking that it is half way, we go half way and they go the other half, what I have been saying is that they must recognise our right to our land, our separate identity as a people and our right to self-government when they have done that then I will be able to compromise with them on the question of a constitutional court and of a head of state because in my view a Spanish head of state would not change the sovereignty of Gibraltar. A Spanish head of state may make that head of state Gibraltarian but it would not make Gibraltar Spanish. There is the anti-Brussels lobby who really believe that Brussels is very dangerous and the somehow it might trick us into against our will becoming Spanish even though we

would be resisting, that by participating we put ourselves on a slippery slope that unawares almost we could find ourself sold down the river. I would accept as reasonable somebody who said "Look, I am willing to make some slight compromises to reach a settlement with Spain but not through Brussels." Therefore my position would be, okay no Brussels and no dialogue with Spain until such time as they show themselves also willing to compromise. This is not my position but the position I would respect if it was for example the GSLP position or a position from the anti-Brussels lobby because it is crystal clear to me that unless there is some movement and some flexibility the Spanish sovereignty claim will simply not disappear. We have got to help Spain to dilute their claim, to come down to earth, to be more realistic and to be willing to compromise on this issue and I would respect somebody who said "Look, no dialogue with Spain until such time as they indicate willingness to make real concessions to us". I have finished what I wanted to say, just one small thing more if I can find it. Today's paper reminded me of Maurice Xiberras who recently in his articles in the Panorama claimed that there was a kind of telegram that the Foreign Office could send in the eve of the elections that would enable one to win that election. In a far smaller way of course where Teofila Martinez of the PP which the paper calls her one of her famous leaders, says that no matter what Joe Bossano may say about the PP introducing a host of repressive measures against Gibraltar they would do nothing of the sort. She added that PP leaders were well acquainted with the situation and the bad results yielded by Spanish policy towards Gibraltar in recent times, therefore their actions would be substantially different. It seems to me, Mr Speaker, a very hopeful message if they carry it through.

MR SPEAKER:

Order, order, no member in the public gallery can make any gestures. I will ask you to leave it you carry on.

HON P CUMMING:

I am just finishing Mr Speaker. This lady Teofila Martinez of the Partido Popular, Mayor of Cadiz, one of the PP's most famous leaders according to the Chronicle has made this statement in order to reassure Gibraltarians and that seems to me hopeful, positive and may be the PP will come in and surprise us with a change of attitude or may be it will not but my view about a negotiated settlement and eventual compromise goes beyond that time. We may well have to wait for Ruperez to come and then wait for Ruperez to go but the time for him to go will come and changes will come and we must help changes to come to make possible a settlement.

Question proposed.

HON P R CARUANA:

Mr Speaker, the Hon Mr Cumming is certainly making us work for our salaries tonight. We will not be supporting this motion. The Opposition that I lead, as this House knows is keen to promote a process of dialogue in which Gibraltar is separately represented with its own voice in order to explore the possibilities of reducing the hostility in the relationship of mutual cooperation, of cohabiting as neighbours within the European Union. We do not promote dialogue for the purposes of exploring the possibilities for a favourable compromised settlement. A favourable compromised settlement presupposes a willingness to compromise on the subject matter of the claim. The claim is for the sovereignty of Gibraltar and certainly the party that I lead is not willing to take part in a process of dialogue for the purposes of settling on a compromise basis Spain's claim to sovereignty because that must necessarily involve concessions on sovereignty and that is the reason why we will not support this motion. The hon Member spoke of helping Spain to dilute her claim. We are quite happy to help Spain to get over her historical hang-up which causes her to persevere with her claim but certainly we do not believe that the way to help Spain to get over her problems is for us to compromise her claim to sovereignty over our homeland. Mr Speaker, I have heard with interest the Hon Mr Cumming's suggestion that I might be invariably either being dishonest or misleading the electorate with our manifesto in that we are promising them more than he thinks that he thinks he can deliver. If the hon Member thinks that we are being dishonest or that we are misleading the electorate, could I then ask him please to stop asking them to vote for me which I am sure he will not want them to do if he thinks I am being dishonest or misleading them and I think that that will be the best thing for all of us?

HON CHIEF MINISTER:

Mr Speaker, the Government do not support this motion. The hon Member, in moving the motion, has once again gone through the litany of calamities which face us and he has now calculated that he is a prophet ahead of his time by three years, that is to say the rest of us - the unfortunate winner of the next election - will find in the third year of the fourth year term of office that the Rock capsizes. There is absolutely nothing to suggest that we face that level of economic problems. Nothing whatsoever and if the hon Member wants to quote me then why does he not go back to what I said in January 1992 when I said we are in for tough times, ahead of an election? But tough times did not mean we are going to be like St Helena sending hungry children to school and with power cuts because we did not have a generator. Tough times meant tough times in having to compete to bring business to Gibraltar when we had said we had spent four years creating the capacity to handle the business and now the more difficult part

comes which is going to get the business when clearly the Spaniards will be trying to use their influence to dissuade people from coming here like we know that although there is absolutely nothing to stop European airlines flying into Gibraltar today, legally and technically, because when I was in the European Court of Justice on the airport exclusion, the argument that was being used by the Commission lawyer was that Gibraltar had not been prejudiced by its exclusion because the exclusion did not prevent anybody from coming. It prevented anybody from going from Gibraltar to another country and Gibraltar did not have an airline trying to go anywhere. The leaving us out of the airport directive did not mean that Air France could not fly to France without French permission and GB Airways was not trying to go to France and if the French wanted to come here there was nothing to stop them. They used that as an argument to demonstrate that we could not claim to be prejudiced commercially by our exclusion. Of course, we know, for example, that the Swiss have been told that it would not be considered a friendly act to come to Gibraltar and that that has happened over a number of years with a number of airlines. The fact is that some airlines can pay attention to it and some cannot and that of course when we are talking about the airline business the route would not be expected to be such a lucrative route that it is worth upsetting Spain but if somebody wants to come and bring in a bank to Gibraltar then it does not matter upsetting Spain because Spain cannot go round closing their banks but it can certainly make difficulty for an airline in giving them more or less priority on slots in a Spanish airport. So the tough times is tough in terms of being competitive, of having to work hard to bring business to Gibraltar when other people may be better placed than us to provide incentives and of doing that on the back of losing the staple element of our economy which was MOD expenditure but we are not talking about having to run a guerilla war in the Upper Rock to defend our homeland. A lot of other colonies have had to do that. When the hon Member talks about the sacrifices that we shall be called upon to make in continuing to resist, including a lowering standard of living and increasing emigration, this is total, absolute rubbish. There is no risk of this happening, no (interruption). No, it is not already happening. Over the last few years more Gibraltarians have come back to Gibraltar than at any time in our history. They left when the frontier was closed and they have come back because for the first time in our history they have been able to sell their home in London and buy a home in Gibraltar and the record shows it because we have got an election coming up next week where there are 1,700 more people than there were (Interruption). We have got an election coming up in the near future which has got an electoral roll that shows a very large increase since 1992. Where is the evidence of the emigration? Let the hon Member look at the Employment Surveys and he will find that notwithstanding the fact that there has been higher unemployment that any of us would have wanted the number of Gibraltarians employed

has been going up because there are more Gibraltarians not less. So it is not true and if he believes it to be happening he ought to base himself on factual information. There is no evidence that that is happening now and there is no evidence that that is going to be happening round the corner. And let me tell the hon Member one thing. Although it is not true that we are dependant on UK support for the economy in terms of getting any money from them because they are not giving us any money other than an allocation of EC funding, if indeed we face a situation from Spain which was a repetition of the one that we had when they locked us in here to try and make the economy collapse, I think the UK would have a responsibility to restore the sustain and support policy that they had then and that they have an obligation to do it. This is not something that we say "Please will you do it?" The United Nations Charter says that the administering power has a sacred trust to protect the people that is under it because they are not sovereign and they are not free to do it themselves or to do a deal with another country. If we are not able to run our own defence and we are not able to do a deal with somebody else to defend us because this is constitutionally outside our remit we do not have to say to them "Look, please come and stop us being invaded", it is their job. So let us be clear that this is not something where we are saying either we have to do a deal with a neighbour or we have to accept that we are going to be allowed to sink because the British Government will simply surrender its responsibilities. I do not think we can permit them to do it and I do not think they have shown an indication that they will do it. They have shown an indication that they would like us to go down the route that the hon Member would like us to go and that they would like us to go down the route that the Government in 1984 went with the Brussels Agreement and that they would like us to go down the route that the previous Government went down with the Lisbon Agreement in 1980 and that they would like us to go down the route that the previous Government went down with the Strasbourg Process in 1976 and we have been the stumbling block in the Opposition in 1976, in 1980, in 1984, in 1992, in 1996 and we will keep on being there to stop it happening, wherever we need to be. It does not bother us but we will prevent it.

So let us be clear about that and that was the message that I put across in the International Institute of International Affairs and I do not accept the hon Member's understanding of democracy that it requires that we should say "Well, we do not want to be Spanish but who knows our children might want to be Spanish or our grandchildren may want to be Spanish". I do not hear anybody else saying that anywhere else. I do not hear the Saharais saying "We do not want to be Moroccans but our children or our grandchildren may want to be". I do not hear the Palestinians saying "We do not want to be Israelis but

our children may". No other people seeking self-determination says that. So we are going to be as undemocratic as the rest of the human race except the hon Member who must have been the greatest democrat since Democratus invented the word in Athens. Certainly it is true that when Sir Joshua spoke in the International Institute of International Affairs he did say "I am not making any promise and I am not saying it is going to happen but perhaps, if they are nice to us, who knows in the fullness of time people might change their minds" and I think that it is correct that what the hon Member says that that has got all the symptoms of leaving a door open and I want that door shut and bolted. It does seem to give a hope to Spain and I say give them no hope so the positions are clear and we stand by that position. That does not mean that we can say, "Look, if it is a question of saying who is the one that does not want to talk in the full knowledge that we are talking about a conversation of the deaf and the dumb". We are not going to be the ones that say, "We do not want to talk to anything that comes from Spain because they are pariahs or lepers and allow other people to use that to make us out to be the bad guys and the Spaniards the good ones because there is more than sufficient reason for not wanting to be seen in the same part of the world as they live, never mind talking to them, more than enough reason. The position that they adopt is totally indefensible. The hon Member talks about democracy. How can we even think that he can use the language of democracy with these people next door when they have the audacity to turn round and say what the dictatorship did in locking the gate and putting pressure on the Gibraltarians and putting a boycott on them, was terrible? We would not have done it if there had been a democracy in Spain. "What will you give me to take it off?" If we have a war against the Nazis and someone arrives at a concentration camp, one does not say, "The Nazis were terrible to put you in the concentration camp but what will you give me to let you out?" That is what the Spaniards are saying because they signed an agreement in 1984, for heaven's sake, saying the ferry service will come back in February 1985 and it is now 11 years. What more evidence does the hon Member want? Because after the closure of the frontier and after the disappearance of the ferry service there was still flights between Gibraltar and Madrid with Franco there and there are none now. Franco did not say "In order for British Airways to fly London/Madrid/Gibraltar we must have joint use airport agreement". Franco did not say that. The democratic Spain has said that. They have not even restored what there was in 1969. We can say "In the real world even though you think that what was done was wrong, if you can take advantage of it, you are going to exploit it". Fine, but then let us not kid ourselves about the kind of people that we are dealing with and let us stop messing about with attempts to get away from the reality of the position and I agree with the hon Member about one thing. What I agree with was what he said about the

previous motion on the airport because he actually voted in the previous motion to terminate the agreement having been persuaded by the Leader of the Opposition who has obviously got far greater powers of persuasion on him than I have. I do not know because he was still saying no when I had finished and he started saying yes when the hon Member started. The hon Member clearly persuaded him by actually conning him into thinking that my motion and his motion meant the same thing and he swallowed it. But let me tell him what he has done. He has actually said that Britain should go to Spain and say "The agreement is dead and buried and if you are really serious accept that that is a fact of life" which is a perfectly valid message because that is the message which he says we should be putting to our people. He is saying our people should be told these are the facts of life, and we have got to face it. Look, the facts of life have got to be faced by everybody. The facts of life are that life might be easier, more pleasant and more lucrative with a neighbour showering boundless gifts on us but the alternative to that is not that we would be living in poverty as if we were in New Delhi. This is not the contrast and this is not the choice before our people and if that were the choice then it might well be that there would be few people who would be able to resist a take over if they had starving children, decaying schools, power cuts and third world deprivation. In Gibraltar that might be difficult where people sometimes seem to have difficulty in coping with overtime cuts, never mind third world deprivation. But of course the example which the hon Member claims that I put to our people of commitment to our country and the defence of it is asking little compared to other people in front of the United Nations Committee of 24. If the hon Member thinks that I am wasting my time putting Gibraltar's case before the Committee of 24 I would imagine that he would now be Indonesian instead of East Timorese because the East Timorese have been doing that in exile for 25 years. What message of realism would he put to those people who have got the right of self-determination recognised by the Committee of 24? What would he say to the Saharais and the Polisarios? What would he have said to Arafat, he should have given up a long time ago? There is a fundamental contradiction in his message because he asks us to be realistic on the basis that accepting defeat is the only thing that one can be realistic about and the rest of the world around us shows us that persistence, determination and commitment against all odds does make for occasional successes. In some cases countries have disappeared totally and been absorbed and we have never heard of them again but they have been absorbed because there have not been any real movement to defend the right of the people. Where there has been and they have gone into exile it may have taken them a very long time but eventually they have got through. The hon Member seems to be forgetting that the hopeful signs in Spain are not what Teofila Martinez says now, because what is she saying? "Look, Joe Bossano is very anti-Spanish and do not believe anything he tells

you". I imagine that they would want me to win the election as much as I want them to win the election - the feeling is mutual. But small though it may be the fact is that the surveys that have been carried out by the Department of Social Studies of the Complutense where the professor is from La Linea on attitudes about Gibraltar show very slow but increasing support for the recognition of the right to self-determination. The last survey which was published earlier this year which related to last year showed that the percentage was highest amongst people who had further education and amongst people who were under 25 and that is a very encouraging indicator because it shows that the younger and better educated Spaniard have got a more open mind than previous generations and it is an open mind not about dialogue or concessions or a deal but about recognising the right. We have not even got to the stage of getting it recognised before we can even talk about exercising it. The hon Member quoted what I said in the United Nations in 1993. Of course I said it in 1993 in response to what was the position when the matter was first raised in the United Nations because what I was saying to the Committee was "In 1964 you said the resolution on decolonisation applied in full to Gibraltar but at the same time there is a difference, indeed a dispute, between Spain and the United Kingdom and they should get together to try and solve their dispute out" and we said "We agree that there is a dispute in the context that we agree that there is a dispute having said the decolonisation resolution applied fully to Gibraltar" because when that was said in 1964 Mr King who was the representative of the United Kingdom at the United Nations rejected the position that there was a dispute and there was anything to talk about. They were even more hard line then than we are now. Now, we have no reason to change our position because ours is not one of convenience and theirs might well have been. The Spanish argument had some substance in it when they said the United Kingdom is so intransigent not because it loves its colonial subjects in Gibraltar more than it does in the rest of the Empire but because it has got very important strategic interests in the place. We know that it had in 1964 because virtually nine out of every ten Gibraltarians were working for them either directly or indirectly and so was half the Campo Area. The UK had important military interests in Gibraltar because it had a world influence and a lot of overseas possessions and it was in defence of those possessions that they needed Gibraltar. The world has changed. The importance is not there but, out course, the obligation and the responsibility have not altered. There was nothing in the United Nations Charter of 1948 that said "An administering power has a sacred trust if it has an important military base but a lukewarm trust if the base is reduced". The sacred trust of that responsibility is identical today to the one that it was then and will continue to be there even if there is not one single employee in the MOD. Otherwise the United Kingdom as the administering power is in breach of the

Charter of the United Nations and we must hold it to it. So, first of all the despondency that leads the hon Member to the second part is totally unjustified and uncalled for and does nothing for our cause. It can only serve if it were to be believed to undermine the will of our people to resist and to encourage the Spaniards to turn a few more notches on the screw so as to make the prediction happen quicker as the standard of living is progressively pushed down by their efforts. The reality of it is that their efforts have not been as successful as they would have liked. The reality of it is that we have just been able to reduce our debt very substantially in the last year which neither they nor UK seem to be capable of doing because they are both going in the opposite direction. Notwithstanding all their efforts we are still in a position to be able to look forward with confidence but not of course to be complacent and say we have nothing to worry about because we can expect more trouble at every turn of every corner but we must have the conviction that we can beat them. Therefore, having said that, I propose to amend the motion of the hon Member by the deletion of all the words after the words "This House" and the substitution of the following words:

"1. Notes that the declared policy of all three national political parties currently contesting the general elections in Spain continues to be to achieve Spanish sovereignty over Gibraltar;

2. Notes that it has been demonstrated at the United Nations in October 1995 that the Brussels negotiating process gave effect to the consensus adopted by the General Assembly on the 14th December 1993 which in turn referred back to Resolutions 2353 (XXII) of 1967 and 2429 (XXIII) of 1968 which called for Gibraltar's decolonisation by reference to Spain's territorial claim;

3. Rejects the Brussels negotiating process and any variant of it irrespective of the number of flags or voices involved;

4. Considers that there can be no process of dialogue with Spain for as long as the Spanish Government persists in its hostile attitude to Gibraltar and fails to accept the people of Gibraltar's right to self-determination."

I commend the amendment to the House.

MR SPEAKER:

I now propose the question in the terms of the amendment moved by the Chief Minister, the Hon Mr Joe Bossano. May I point out that once again this amendment does not modify the original motion it is a completely new proposition and therefore from now onwards we shall use the procedure as we have done earlier today. Members can now speak

on both motions together and again we shall put to the vote the amendment first after the proposer winds up and after that we shall ask the proposer of the original motion to wind up. The vote will then be taken and if the amendment is carried the motion is automatically defeated.

HON CHIEF MINISTER:

Even if no other hon Member contributes I believe the rules provide that the mover of the motion can speak in concluding and since nobody in the Opposition has given any indication of whether they intend to vote for or against the motion I can only assume that the silence I can take as acquiescence and therefore I will welcome the fact that the motion will be a clear cut rejection of the Brussels negotiating process which ought to have been done in Haiti rather than in Brussels given the time that it has been buried and been brought back to life. I would have thought that if we can bury it once and for all as we have done so successfully with the previous motion on the Airport Agreement of 1987 then it will be an important point on which to hold the last participation in a debate in this House of Assembly. I have to say that of course we have been through this process once before in 1991 but perhaps not in as clear cut a statement of policy as this provides and I commend the amendment to the House.

HON P CUMMING:

Mr Speaker, I was going to sort of give up and be reduced to silence but the Chief Minister urging Arafat as an example to Gibraltarians was just too much for me to swallow without some response because he puts his finger in the wound in mentioning Arafat because if the Palestinians and Arafat had been more flexible from the beginning they could have had their Palestine at the same time that Israel was set up and they would not now be living in the poverty that they are. They would have developed alongside Israel to an equivalent standard if they had been a bit more flexible and a bit more willing, for example, to recognise the right to exist of Israel and similar things. The other thing that always depresses me and fills me with gloom is the love the Chief Minister has for the two examples of East Timor and the Polisario Front because after 25 years the East Timor has lost all hope of exercising self-determination ever and they are still turning up there to claim their right. I find it so infinitely pathetic and because the Chief Minister loves this picture I see him turning up there after Gibraltar has totally given up all hope of ever achieving the right to self-determination and still turning up to claim it and believing that it is something wonderful instead of something totally pathetic. I agree that the Complutense reports on the change in the Spanish perception of the Gibraltar problem and the 30 per cent of Spaniards that support self-determination for Gibraltar is very important and that recently they have gone up one or two points to

30 per cent is a very important statistic I agree entirely. I believe that propaganda is very important because as he so rightly says education is a very important part of this. I would have a Government Ministry of Propaganda or else if it is constitutionally impossible a private company dedicated to lobbying in Spain, to lobbying the central government, the central opposition parties, bringing over Spanish politicians to show them the problem from our point of view, to have personal contacts with them, to educate them about Gibraltar and this, I feel, is something that would help change attitudes in Spain much quicker because I do believe that a change in attitude is long overdue in Spain because they are so democratic in their other institutions and yet their attitude to Gibraltar has not been penetrated by democracy yet, but there is hope that it will be because it is so overdue. I believe that we have got constantly to hold up the mirror to them so they see the picture of what they are. The example of sending their young men to Bosnia to fight for the self-determination of the Bosnians and at the same time spoiling our own self-determination I believe is a very good example. Recently Garel-Jones held up this mirror to Spain and called Madrid and London both bullies for what they do to Gibraltar and I believe that that is a very good thing for him to have done on our behalf. The Chief Minister says that Spain continued Franco's attitude to Gibraltar after they were democratic and I agree that this is very bad but nonetheless there are reasons for that. It is difficult for them to change our policy on this issue overnight. They have got to carry the people with them. They have got to walk with the people and at the beginning they were very much afraid of a military takeover, the "golpismo" as they called it and the Gibraltar issue was being one particularly prone to upset the military and therefore there is no need for them to have gone as slow as they have gone for 20 years I agree but certainly in the first years there was justification for them to move slowly, now changes are well overdue, I agree. The question of support and sustain I agree that Britain is not going to leave us to starve or to be in a guerilla warfare up the Rock, of course we would have support and sustain in the same way as St Helena has but that is not a picture emerging from colonialism and it is not a picture of a people flourishing.

Question put on the amendment to the motion. The House divided.

For the Ayes: 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

For the Noes: The Hon Lt Col E M Britto
 The Hon P R Caruana
 The Hon P Cumming
 The Hon H Corby

Absent: The Hon M Ramagge
 The Hon F Vasquez
 The Hon B Traynor
 The Hon K Dawson

The amendment was carried and the original motion defeated.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker I have the honour to move that this House do now adjourn sine die.

MR SPEAKER:

Before I put the question to the adjournment of this last meeting of the House of Assembly before the general election due to take place sooner or later

HON P R CARUANA:

Mr Speaker, on a point of order. I believe that the House cannot adjourn sine die, given Mr Speaker that it dissolved by operation of law on the 14th February and that in any case another meeting of the House could not be called given the necessary seven days' notice since it is now already the 9th of February to adjourn the House sine die is a nonsense.

MR SPEAKER:

There is no other way of adjourning. I am afraid I will have to carry on. It is the end of a House of Assembly and I would like us to pass a message.

I would like to thank all hon Members for your cooperation to the Chair as it has always been traditionally the case in this House, whilst in no way envying the lively behaviour of Members of Parliament in the House of Commons. I know that to maintain this working relationship some hon Members have had to show some degree of self-restraint as indeed the Speaker has had to do also. I know from experience the feelings of such occasions as I have sat in the three sides of the House. It is not always possible for the Speaker to make a Solomon judgement and consequently in those circumstances one party at least may feel resentment. This is the price in self-restraint that has to be paid in a parliament such as the House of Commons and ours where to maximise freedom of speech, controversy politics is encouraged. The spirit is even fostered by sitting

arrangements designed for the Opposition and Government to confront themselves face to face in verbal battle formation and may it long be so because as the Speaker of the House of Commons said not so long ago, "We have controversy politics in this Chamber and I hope we shall always have a robust Parliament and not be mealy mouthed". No one can say that I have not subscribed to this vibrant concept of parliamentary democracy in all the three sides of this House that I have served and I feel gratified for having done so. You will be pleased to learn that our diligent Clerk has been given promotion and as this could well be my last opportunity of thanking him in the House I would like to say that from the very first day he assumed his responsibilities he has worked selflessly to enhance the House, to serve all Members with the highest sense of loyalty and to assist me in every possible way. Furthermore, simultaneously he has prepared the Register of Electors for the coming general election which has been a gigantic task because of the many changes in the addresses of electors due to the large housing developments and he is now in the process of making the necessary arrangements for the coming general election. I congratulate him most heartily on his promotion and thank him profusely for his contribution to democracy in Gibraltar in the three positions that he holds - that of Clerk of the House, Electoral Registration Officer and Returning Officer. Also he has acted brilliantly as Secretary of the Gibraltar Branch of the Commonwealth Parliamentary Association as was evidenced by the success of the Regional Conference held in Gibraltar in 1993. My appreciation and thanks are also extended to the rest of the staff of House and others who worked under Mr Dennis Figueras in his four capacities that I have just mentioned. No one knows what the fortunes of the elections may hold for hon Members who will be standing. Of course, I wish you the very best of luck as indeed I do to those who may not be standing, in your possible new undertakings. As I may not be called upon to utter Order, Order, in this House again I would like to say, for the record, that it has been my greatest honour and privilege to have presided over the functions of this Parliament where the supreme will of the people of Gibraltar is expressed without fear or favour and if I am called upon to continue to preside over the next Assembly by the newly elected Members I will be more than delighted to carry out the duties to the best of my ability. Finally, this is my last tribute to you all. Thanks a lot for putting up with me so gentlemanly and for the lady, so ladylike, for the last four years up to this very moment. Thank you.

Question put. Agreed to.

The adjournment of the House was taken at 9.15 pm on Friday 9 February 1996.

